

**Security Council**

Distr.: General
16 November 2011

Original: English

**Letter dated 15 November 2011 from the Permanent
Representative of Iraq to the United Nations addressed to the
President of the Security Council**

Upon instruction from my Government and with reference to a letter dated 6 July, I have the honour to inform you that the Iraqi Government has implemented the recommendations contained in the Secretary-General's report of June 2011 (S/2011/373). Approval was obtained from the Iraqi authorities to form a committee headed by a representative from the Ministry of Foreign Affairs and having as members representatives from the General Secretariat of the Council of Ministers, the Ministries of Defence, Interior, Finance, Justice and Higher Education and Scientific Research and the Central Bank of Iraq. All of the representatives are at least at the rank of General Director. The Committee will be in charge of coordinating the efforts relating to Kuwaiti national archives.

The Minister for Foreign Affairs of Iraq sent a letter to the Kuwait Embassy in Baghdad regarding the existence of 136 microfilm cassettes that include the official archive of the official newspaper, *Kuwait Today*.

The cassettes are in good condition and ready for transmission. The cassettes were handed over by an Iraqi citizen to the Iraqi Ministry of Foreign Affairs. Please circulate the present letter as a document of the Security Council.

(Signed) T. Hamid Al-Bayati
Ambassador Extraordinary and Plenipotentiary
Permanent Representative



Security Council

Distr.: General
14 November 2011

Original: English

Report of the Secretary-General concerning the credentials of the alternate representative of China on the Security Council

Pursuant to rule 15 of the provisional rules of procedure of the Security Council, the Secretary-General wishes to report that he has received a letter dated 14 November 2011 from the Permanent Representative of China to the United Nations stating that Mr. Zhou Jian has been appointed alternate representative of China on the Security Council.

In the opinion of the Secretary-General, this letter constitutes adequate provisional credentials.



Security Council

Distr.: General
17 November 2011

Original: English

Letter dated 16 November 2011 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a letter from Osman Mohammed Saleh, Minister for Foreign Affairs of the State of Eritrea, in connection with the recent unfounded allegations made against Eritrea by the Government of Kenya (see annex).

I would be grateful if the present letter and its enclosure could be brought to the attention of the members of the Security Council and circulated as a document of the Council.

(Signed) Araya Desta
Ambassador and Permanent Representative

Annex to the letter dated 16 November 2011 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

I am writing to inform you that the Government of Eritrea is formally requesting the Security Council to launch an independent and impartial investigation into the serious and unfounded accusations by the Government of Kenya against Eritrea.

As you are undoubtedly aware, the Government of Kenya has accused Eritrea of delivering, in Baidoa, Somalia, three plane loads of arms to Al-Shabaab.

In its statements of 2 and 5 November 2011, the Government of Eritrea categorically affirmed that the charges were utterly baseless and pure fabrication. Furthermore, Eritrea bilaterally sought to assure Kenya that Eritrea was in no way involved in any arms shipment to Al-Shabaab and informed the Kenyan Government that the Eritrean Foreign Minister was ready to travel to Nairobi to seek an explanation from his Kenyan counterpart and to deliver a letter from President Isaias Afwerki to President Mwai Kibaki. Instead of responding positively to the Eritrean gesture, Kenya has, regrettably, taken up the matter with the United Nations Sanctions Committee, repeating the unfounded accusations against Eritrea.

It is in light of these serious developments that Eritrea has called for an independent and impartial investigation into the matter. If, as Eritrea confidently believes, the investigation determines that there is no basis whatsoever to the very serious and harmful accusations by the Government of Kenya, Eritrea calls on the Security Council to take action that would redress the injustice suffered by the people and Government of Eritrea.

Defamation of a Member State of the United Nations should not be indulged in with impunity and must not be tolerated, given its negative implications for regional peace and security.

(Signed) Osman **Saleh**
Minister

**General Assembly
Security Council**Distr.: General
17 November 2011

Original: English

General Assembly
Tenth emergency special session
Agenda item 5
Illegal Israeli actions in Occupied East
Jerusalem and the rest of the Occupied
Palestinian Territory

Security Council
Sixty-sixth year

**Identical letters dated 16 November 2011 from the Permanent
Observer of Palestine to the United Nations addressed to the
Secretary-General and the President of the Security Council**

We write to express our condemnation of and objection to a continuing series of unilateral and illegal measures that are being taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem. Less than 24 hours after the Quartet met again separately with Palestinian and Israeli delegations in an attempt to forge a way forward for the resumption of credible peace negotiations, Israel, the occupying Power, once again proves its staunch commitment to entrenching its illegitimate occupation, in blatant rejection of the international consensus and in defiance of its obligations under international law.

On Tuesday, 15 November 2011, the Israeli Ministry of Housing illegally offered 2,548 settlement units and land plots for sale and subsidized long-term rentals in illegal settlements in the Occupied Palestinian Territory, most of them in Occupied East Jerusalem. This is an illegal step that is yet another clear demonstration of the determined efforts of the occupying Power to further entrench its belligerent occupation of Palestine at the expense of peace and international credibility. In this regard, there can be no doubt that the increased rate of illegal settlement construction in the Occupied Palestinian Territory, especially in and around East Jerusalem, is in large part due to the international community's failure to hold Israel accountable for its violations and grave breaches over many decades.

The most recent illegal settlement tenders have been announced in the midst of Israel's systematic efforts to cleanse Occupied East Jerusalem of its indigenous Palestinian population, thus altering its demographic composition and cultural character. A case in point is Ammar Badriah, a Jerusalemite, who was recently stripped of his residency rights in his city, as were his wife and three daughters: Wafa (13), Qamar (8) and Iyan (4). Aside from denying Ammar his basic right to reside in the city, the occupying Power is also forcing him to pay approximately \$300,000 in retroactive fines. Such an illegal, inhumane measure is intended to



financially ruin this family while also banning it from its centre of life, a fate suffered by thousands of Palestinian families who have been displaced and dispossessed by Israel's illegal policies vis-à-vis the Palestinian inhabitants of Occupied East Jerusalem.

In this connection, we must draw attention to the fact that Israel's illegal policy of home demolition is also intensifying. On Tuesday, 15 November 2011, Israeli forces demolished four homes in Al-Diyouk Al-Tihta area, west of the city of Jericho, and banned the families from returning to the area to collect their belongings. The occupying Power has also announced plans to demolish another 30 homes in this area. Such demolitions are part of Israel's decades-old policy to empty the Jordan Valley and other areas of the West Bank of its Palestinian residents. In fact, this policy was recently reviewed by the Office for the Coordination of Humanitarian Affairs in the Occupied Palestinian Territory. In August 2011, the Office warned that "in the absence of concrete policy changes ... some of these communities may disintegrate and disappear altogether over the course of the next generation, or sooner". It also warned: "This possibility, along with the other patterns of Palestinian displacement and Israeli settlement activity in Area C, gives rise to concerns over demographic shifts and changes to the ethnic make-up of the West Bank".

In addition to these illegal and destructive policies, the occupying Power continues its practice of actively denying the most basic human rights of the Palestinian civilian population under its occupation. The range of such malicious policies is wide and the impact is severe on all human rights and affects all segments of the population. In this regard, in addition to continuing its inhumane blockade of the Gaza Strip, in collective punishment of the entire civilian population, Israel continues to launch military attacks against the Gaza Strip, with abject disregard for human life and the safety of civilians in this densely populated territory. In a recent Israeli air strike, one person was killed and the head of the Gaza consular branch of the French General Consulate and his 13-year-old daughter were seriously injured inside their home, and his wife suffered a miscarriage following the attack. We must call the international community's attention to the continuing threats by Israel in this regard, including by the chief of the Israeli army, who recently declared that the occupying forces "will have to take significant aggressive action in the Gaza Strip". We call for all efforts to bring to an end this Israeli blockade and violence against the Palestinian people.

Today, we also condemn Israel's rejection of an official Palestinian request to transfer the former political prisoner Amal Jumaa (41) to Jordan for urgently needed medical treatment. Amal was one of the women prisoners freed in the prisoner exchange of October 2011. During her years in imprisonment, Amal suffered from grave medical negligence that caused chronic illnesses that require immediate medical attention. Clearly, the ban on this woman's basic right to access adequate health care is in flagrant violation of international law and Israel's obligations as an occupying Power.

In addition to the aforementioned illegal actions, Israel, the occupying Power, has renewed its decision to continue robbing the Palestinian people of their tax revenues, as reflected in the recent announcement to continue withholding Palestine's November tax revenues. We condemn this action as an outrageous act of piracy and political extortion of the Palestinian people and their leadership. This is

Palestinian money that Israel is obliged to transfer to the Palestinian Authority in accordance with signed agreements. In this connection, we reiterate our call on the international community to ensure that this seizure of Palestinian revenues is ended without preconditions.

We conclude our letter by expressing our grave concern about and absolute rejection of the continued Israeli campaign of incitement against the Palestinian leadership, particularly President Mahmoud Abbas. Most recently, the Israeli Finance Minister likened the legitimate and multilateral Palestinian efforts to secure the Palestinian people's natural and historic right to statehood and self-determination to "terror attacks". The Minister, who also described President Abbas as "dangerous" and called him an "enemy", also announced: "It's not enough to halt the funds; we need to take additional [punitive] measures." Such incitement, which constitutes a serious threat to the President's life and is raising tensions between the two sides, cannot continue to be tolerated. In this regard, the Palestinian leadership holds Israel, the occupying Power, fully responsible for this reckless and hostile campaign.

This letter is in follow-up to our previous 410 letters regarding the ongoing crisis in the Occupied Palestinian Territory, including East Jerusalem, since 28 September 2000. These letters, dated from 29 September 2000 (A/55/432-S/2000/921) to 2 November 2011 (A/ES-10/538-S/2011/680) constitute a basic record of the crimes being committed by Israel, the occupying Power, against the Palestinian people since September 2000. For all of these war crimes, acts of State terrorism and systematic human rights violations committed against the Palestinian people, Israel, the occupying Power, must be held accountable and the perpetrators must be brought to justice.

I should be grateful if you would arrange to have the text of the present letter distributed as a document of the tenth emergency special session of the General Assembly, under agenda item 5, and of the Security Council.

(Signed) **Riyad Mansour**
Ambassador
Permanent Observer of Palestine to the United Nations

**Security Council**

Distr.: General
22 November 2011

Original: English

France, Germany, India, Norway, Russian Federation, United Kingdom of Great Britain and Northern Ireland and United States of America: draft resolution

The Security Council,

Recalling its previous resolutions concerning the situation in Somalia, especially resolutions 1814 (2008), 1816 (2008), 1838 (2008), 1844 (2008), 1846 (2008), 1851 (2008), 1897 (2009), 1918 (2010), 1950 (2010), 1976 (2011), and 2015 (2011), as well as the Statement of its President (S/PRST/2010/16) of 25 August 2010,

Continuing to be gravely concerned by the ongoing threat that piracy and armed robbery at sea against vessels pose to the prompt, safe, and effective delivery of humanitarian aid to Somalia and the region, to the safety of seafarers and other persons, to international navigation and the safety of commercial maritime routes, and to other vulnerable ships, including fishing activities in conformity with international law, and also gravely concerned by the extended range of the piracy threat into the western Indian Ocean and adjacent sea areas, and the increase in pirate capacities,

Expressing concern about the reported involvement of children in piracy off the coast of Somalia,

Recognizing that the ongoing instability in Somalia contributes to the problem of piracy and armed robbery at sea off the coast of Somalia, and stressing the need for a comprehensive response by the international community to repress piracy and armed robbery at sea and tackle its underlying causes,

Recognizing the need to investigate and prosecute not only suspects captured at sea, but also anyone who incites or intentionally facilitates piracy operations, including key figures of criminal networks involved in piracy who illicitly plan, organize, facilitate, or finance and profit from such attacks and *reiterating its concern* over a large number of persons suspected of piracy having to be released without facing justice, *reaffirming* that the failure to prosecute persons responsible for acts of piracy and armed robbery at sea off the coast of Somalia undermines anti-piracy efforts of the international community and *being determined* to create conditions to ensure that pirates are held accountable,

Reaffirming its respect for the sovereignty, territorial integrity, political independence and unity of Somalia, including Somalia's rights with respect to offshore natural resources, including fisheries, in accordance with international law,



recalling the importance of preventing, in accordance with international law, illegal fishing and illegal dumping, including of toxic substances, and *stressing* the need to investigate allegations of such illegal fishing and dumping, and *noting with appreciation* in this respect the report of the Secretary-General on the protection of Somali natural resources and water (S/2011/661) prepared pursuant to paragraph 7 of Security Council Resolution 1976 (2011),

Further reaffirming that international law, as reflected in the United Nations Convention on the Law of the Sea of 10 December 1982 ("The Convention"), sets out the legal framework applicable to combating piracy and armed robbery at sea, as well as other ocean activities,

Again taking into account the crisis situation in Somalia, and the limited capacity of the Transitional Federal Government (TFG) to interdict, or upon interdiction to prosecute pirates or to patrol or secure the waters off the coast of Somalia, including the international sea lanes and Somalia's territorial waters,

Noting the several requests from the TFG for international assistance to counter piracy off its coast, including the letter of 10 November 2011, from the Permanent Representative of Somalia to the United Nations expressing the appreciation of the TFG to the Security Council for its assistance, expressing the TFG's willingness to consider working with other States and regional organizations to combat piracy and armed robbery at sea off the coast of Somalia, and requesting that the provisions of resolution 1897 (2009) be renewed for an additional twelve months,

Commending the efforts of the EU operation Atalanta, North Atlantic Treaty Organization operations Allied Protector and Ocean Shield, Combined Maritime Forces' Combined Task Force 151, and other States acting in a national capacity in cooperation with the TFG and each other, to suppress piracy and to protect vulnerable ships transiting through the waters off the coast of Somalia, and *welcoming* the efforts of individual countries, including China, India, Islamic Republic of Iran, Japan, Malaysia, Republic of Korea, Russian Federation, Saudi Arabia, and Yemen, which have deployed ships and/or aircraft in the region, as stated in the Secretary-General's report (S/2011/662),

Welcoming the capacity-building efforts in the region made by the International Maritime Organization (IMO) Djibouti Code of Conduct, the Djibouti Code of Conduct Trust Fund, and the Trust Fund Supporting Initiatives of States Countering Piracy off the Coast of Somalia, and recognizing the need for all engaged international and regional organizations to cooperate fully,

Noting with appreciation the efforts made by IMO and the shipping industry to develop and update guidance, best management practices, and recommendations to assist ships to prevent and suppress piracy attacks off the coast of Somalia, including in the Gulf of Aden and the Indian Ocean area, and *recognizing* the work of the IMO and the Contact Group on Piracy off the Coast of Somalia ("CGPCS") on privately contracted armed security personnel on board ships in high-risk areas.

Noting with concern that the continuing limited capacity and domestic legislation to facilitate the custody and prosecution of suspected pirates after their capture has hindered more robust international action against the pirates off the coast of Somalia, and in some cases has led to pirates being released without facing justice, regardless of whether there is sufficient evidence to support prosecution, and

reiterating that, consistent with the provisions of the Convention concerning the repression of piracy, the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation ("SUA Convention") provides for parties to create criminal offences, establish jurisdiction, and accept delivery of persons responsible for or suspected of seizing or exercising control over a ship by force or threat thereof or any other form of intimidation,

Underlining the importance of continuing to enhance the collection, preservation and transmission to competent authorities of evidence of acts of piracy and armed robbery at sea off the coast of Somalia, and *welcoming* the ongoing work of IMO, INTERPOL and industry groups to develop guidance to seafarers on preservation of crime scenes following acts of piracy, and noting the importance for the successful prosecution of acts of piracy of enabling seafarers to give evidence in criminal proceedings,

Noting the consensus at the ninth plenary session of the CGPCS on 14 July 2011 to establish a formal Working Group 5 on "illicit financial flows linked to piracy off the coast of Somalia",

Further recognizing that pirates are turning increasingly to kidnapping and hostage-taking, and that these activities help generate funding to purchase weapons, gain recruits, and continue their operational activities, thereby jeopardizing the safety and security of innocent civilians and restricting the flow of free commerce,

Reaffirming international condemnation of acts of kidnapping and hostage-taking, including acts condemned in the International Convention against the Taking of Hostages, and *strongly condemning* the continuing practice of hostage-taking by suspected pirates operating off the coast of Somalia, *expressing serious concern* at the inhuman conditions hostages face in captivity, *recognizing* the adverse impact on their families, *calling for* the immediate release of all hostages, and *noting* the importance of cooperation between Member States on the issue of hostage-taking and the need for the prosecution of suspected pirates for taking hostages,

Commending the Republic of Kenya and the Republic of Seychelles' efforts to prosecute suspected pirates in their national courts, welcoming the engagement of the Republic of Mauritius and the United Republic of Tanzania, and *noting* with appreciation the assistance being provided by the United Nations Office on Drugs and Crime (UNODC), the Trust Fund Supporting Initiatives of States Countering Piracy off the Coast of Somalia, and other international organizations and donors, in coordination with the CGPCS, to support Kenya, Seychelles, Somalia, and other States in the region, including Yemen, to take steps to prosecute, or incarcerate in a third state after prosecution elsewhere, pirates, including facilitators and financiers ashore, consistent with applicable international human rights law, and emphasizing the need for States and international organizations to further enhance international efforts in this regard,

Welcoming the readiness of the national and regional administrations of Somalia to cooperate with each other and with States who have prosecuted suspected pirates with a view to enabling convicted pirates to be repatriated back to Somalia under suitable prisoner transfer arrangements, consistent with applicable international law including international human rights law,

Welcoming the report of the Secretary-General (S/2011/662), as requested by resolution 1950 (2010), on the implementation of that resolution and on the situation with respect to piracy and armed robbery at sea off the coast of Somalia,

Taking note with appreciation of the report of the Secretary-General on the modalities for the establishment of specialized Somali anti-piracy courts (S/2011/360) prepared pursuant to paragraph 26 of resolution 1976 (2011), and the ongoing efforts within the CGPCS and the United Nations Secretariat to explore possible additional mechanisms to effectively prosecute persons suspected of piracy and armed robbery at sea off the coast of Somalia, including those ashore who incite or intentionally facilitate acts of piracy,

Stressing the need for States to consider possible methods to assist the seafarers who are victims of pirates, and welcoming in this regard the ongoing work within the CGPCS and the International Maritime Organization on developing guidelines for the care of seafarers and other persons who have been subjected to acts of piracy,

Further noting with appreciation the ongoing efforts by UNODC and UNDP to support efforts to enhance the capacity of the corrections system in Somalia, including regional authorities notably with the support of the Trust Fund Supporting Initiatives of States Countering Piracy off the Coast of Somalia, to incarcerate convicted pirates consistent with applicable international human rights law,

Bearing in mind the Djibouti Code of Conduct concerning the Repression of Piracy and Armed Robbery against Ships in the Western Indian Ocean and the Gulf of Aden, and *recognizing* the efforts of signatory States to develop the appropriate regulatory and legislative frameworks to combat piracy, enhance their capacity to patrol the waters of the region, interdict suspect vessels, and prosecute suspected pirates,

Emphasizing that peace and stability within Somalia, the strengthening of State institutions, economic and social development and respect for human rights and the rule of law are necessary to create the conditions for a durable eradication of piracy and armed robbery at sea off the coast of Somalia, and *further emphasizing* that Somalia's long-term security rests with the effective development by the TFG of the National Security Force, including the Somali Police Force, in the framework of the Djibouti Agreement and in line with a national security strategy,

Welcoming in this regard that the 6 September 2011 Roadmap to end the transition in Somalia calls for the TFG to develop counter-piracy policy and legislation in conjunction with regional entities, and the declaration of an Exclusive Economic Zone (EEZ), as key tasks of the Transitional Federal Institutions (TFIs), and notes that the Security Council has made its future support to the TFIs contingent upon the completion of the tasks contained in the Roadmap,

Determining that the incidents of piracy and armed robbery at sea off the coast of Somalia exacerbate the situation in Somalia, which continues to constitute a threat to international peace and security in the region,

Acting under Chapter VII of the Charter of the United Nations,

1. *Reiterates* that it condemns and deplors all acts of piracy and armed robbery against vessels in the waters off the coast of Somalia;

2. *Recognizes* that the ongoing instability in Somalia is one of the underlying causes of the problem of piracy and contributes to the problem of piracy and armed robbery at sea off the coast of Somalia;

3. *Stresses* the need for a comprehensive response to repress piracy and tackle its underlying causes by the international community;

4. *Recognizes* the need to investigate and prosecute not only suspects captured at sea, but also anyone who incites or intentionally facilitates piracy operations, including key figures of criminal networks involved in piracy who illicitly plan, organize, facilitate, or finance and profit from such attacks;

5. *Calls upon* States to cooperate also, as appropriate, on the issue of hostage-taking, and the prosecution of suspected pirates for taking hostages;

6. *Notes again* its concern regarding the findings contained in the 20 November 2008 report of the Monitoring Group on Somalia (S/2008/769, page 55) that escalating ransom payments and the lack of enforcement of the arms embargo established by resolution 733 (1992) are fuelling the growth of piracy off the coast of Somalia, *calls upon* all States to cooperate fully with the Somalia and Eritrea Monitoring Group including on information sharing regarding possible arms embargo violations;

7. *Renews* its call upon States and regional organizations that have the capacity to do so, to take part in the fight against piracy and armed robbery at sea off the coast of Somalia, in particular, consistent with this resolution and international law, by deploying naval vessels, arms and military aircraft and through seizures and disposition of boats, vessels, arms and other related equipment used in the commission of piracy and armed robbery at sea off the coast of Somalia, or for which there are reasonable grounds for suspecting such use;

8. *Commends the work* of the CGPCS to facilitate coordination in order to deter acts of piracy and armed robbery at sea off the coast of Somalia, in cooperation with the IMO, flag States, and the TFG and *urges* States and international organizations to continue to support these efforts;

9. *Encourages* Member States to continue to cooperate with the TFG in the fight against piracy and armed robbery at sea, notes the primary role of the TFG in the fight against piracy and armed robbery at sea off the coast of Somalia, and *decides* that for a further period of twelve months from the date of this resolution to renew the authorizations as set out in paragraph 10 of resolution 1846 (2008) and paragraph 6 of resolution 1851 (2008), as renewed by paragraph 7 of resolution 1897 (2009), and paragraph 7 of resolution 1950 (2010), granted to States and regional organizations cooperating with the TFG in the fight against piracy and armed robbery at sea off the coast of Somalia, for which advance notification has been provided by the TFG to the Secretary-General;

10. *Affirms* that the authorizations renewed in this resolution apply only with respect to the situation in Somalia and shall not affect the rights or obligations or responsibilities of Member States under international law, including any rights or obligations, under the Convention, with respect to any other situation, and underscores in particular that this resolution shall not be considered as establishing customary international law; and *affirms further* that such authorizations have been

renewed only following the receipt of the 10 November 2011 letter conveying the consent of the TFG;

11. *Further affirms* that the measures imposed by paragraph 5 of resolution 733 (1992) and further elaborated upon by paragraphs 1 and 2 of resolution 1425 (2002) do not apply to weapons and military equipment destined for the sole use of Member States and regional organizations undertaking measures in accordance with paragraph 9 above or to supplies of technical assistance to Somalia solely for the purposes set out in paragraph 6 of resolution 1950 (2010) which have been exempted from those measures in accordance with the procedure set out in paragraphs 11 (b) and 12 of resolution 1772 (2007);

12. *Requests* that cooperating States take appropriate steps to ensure that the activities they undertake pursuant to the authorizations in paragraph 9 do not have the practical effect of denying or impairing the right of innocent passage to the ships of any third State;

13. *Calls on* Member States to assist Somalia, at the request of the TFG and with notification to the Secretary-General, to strengthen capacity in Somalia, including regional authorities, to bring to justice those who are using Somali territory to plan, facilitate, or undertake criminal acts of piracy and armed robbery at sea, and *stresses* that any measures undertaken pursuant to this paragraph shall be consistent with applicable international human rights law;

14. *Calls upon* all States, and in particular flag, port, and coastal States, States of the nationality of victims, and perpetrators of piracy and armed robbery, and other States with relevant jurisdiction under international law and national legislation, to cooperate in determining jurisdiction, and in the investigation and prosecution of all persons responsible for acts of piracy and armed robbery off the coast of Somalia, including anyone who incites or facilitates an act of piracy, consistent with applicable international law including international human rights law to ensure that all pirates handed over to judicial authorities are subject to a judicial process, and to render assistance by, among other actions, providing disposition and logistics assistance with respect to persons under their jurisdiction and control, such as victims and witnesses and persons detained as a result of operations conducted under this resolution;

15. *Calls upon* all States to criminalize piracy under their domestic law and to favourably consider the prosecution of suspected, and imprisonment of convicted, pirates apprehended off the coast of Somalia, and their facilitators and financiers ashore, consistent with applicable international law including international human rights law;

16. *Reiterates* its decision to continue its consideration, as a matter of urgency, of the establishment of specialized anti-piracy courts in Somalia and other States in the region with substantial international participation and/or support, as set forth in resolution 2015 (2011), and the importance of such courts having jurisdiction over not only suspects captured at sea, but also anyone who incites or intentionally facilitates piracy operations, including key figures of criminal networks involved in piracy who illicitly plan, organize, facilitate, or finance and profit from such attacks, and *emphasizes* the need for strengthened cooperation of States, regional, and international organizations in holding such individuals accountable, and encourages the CGPCS to continue its discussions in this regard;

17. *Urges* all States to take appropriate actions under their existing domestic law to prevent the illicit financing of acts of piracy and the laundering of its proceeds;

18. *Urges* States, in cooperation with INTERPOL and Europol, to further investigate international criminal networks involved in piracy off the coast of Somalia, including those responsible for illicit financing and facilitation;

19. *Commends* INTERPOL for the creation of a global piracy database designed to consolidate information about piracy off the coast of Somalia and facilitate the development of actionable analysis for law enforcement, and *urges* all States to share such information with INTERPOL for use in the database, through appropriate channels;

20. *Stresses* in this context the need to support the investigation and prosecution of those who illicitly finance, plan, organize, or unlawfully profit from pirate attacks off the coast of Somalia;

21. *Urges* States and international organizations to share evidence and information for anti-piracy law enforcement purposes with a view to ensuring effective prosecution of suspected, and imprisonment of convicted, pirates;

22. *Commends* the establishment of the Trust Fund Supporting the Initiatives of States Countering Piracy off the Coast of Somalia and the International Maritime Organization (IMO) Djibouti Code Trust Fund and *urges* both state and non-state actors affected by piracy, most notably the international shipping community, to contribute to them;

23. *Urges* States parties to the Convention and the SUA Convention to implement fully their relevant obligations under these Conventions and customary international law and cooperate with the UNODC, IMO, and other States and other international organizations to build judicial capacity for the successful prosecution of persons suspected of piracy and armed robbery at sea off the Coast of Somalia;

24. *Urges* States individually or within the framework of competent international organizations to positively consider investigating allegations of illegal fishing and illegal dumping, including of toxic substances, with a view to prosecuting such offences when committed by persons under their jurisdiction; and *takes note* of the Secretary-General's intention to include updates on these issues in his future reports relating to piracy off the Coast of Somalia;

25. *Welcomes* the recommendations and guidance of the IMO on preventing and suppressing piracy and armed robbery against ships, *underlines* the importance of implementing such recommendations and guidance by all stakeholders, including the shipping industry, and *urges* States, in collaboration with the shipping and insurance industries, and the IMO, to continue to develop and implement avoidance, evasion, and defensive best practices and advisories to take when under attack or when sailing in the waters off the coast of Somalia, and further *urges* States to make their citizens and vessels available for forensic investigation as appropriate at the first port of call immediately following an act or attempted act of piracy or armed robbery at sea or release from captivity;

26. *Invites* the IMO to continue its contributions to the prevention and suppression of acts of piracy and armed robbery against ships in coordination, in particular, with the United Nations Office on Drugs and Crime (UNODC), the World

Food Programme (WFP), the shipping industry, and all other parties concerned, and recognizes the IMO's role concerning privately contracted armed security personnel on board ships in high-risk areas;

27. *Notes* the importance of securing the safe delivery of World Food Programme (WFP) assistance by sea, *welcomes* the ongoing work by WFP, EU operation Atalanta and Flag States with regard to Vessel Protection Detachments on WFP vessels;

28. *Requests* States and regional organizations cooperating with the TFG to inform the Security Council and the Secretary-General in 9 months of the progress of actions undertaken in the exercise of the authorizations provided in paragraph 9 above and further requests all States contributing through the CGPCS to the fight against piracy off the coast of Somalia, including Somalia and other States in the region, to report by the same deadline on their efforts to establish jurisdiction and cooperation in the investigation and prosecution of piracy;

29. *Requests* the Secretary-General to report to the Security Council within 11 months of the adoption of this resolution on the implementation of this resolution and on the situation with respect to piracy and armed robbery at sea off the coast of Somalia;

30. *Expresses* its intention to review the situation and consider, as appropriate, renewing the authorizations provided in paragraph 9 above for additional periods upon the request of the TFG;

31. *Decides* to remain seized of the matter.



Security Council

Distr.: General
21 November 2011

Original: English

Letter dated 18 November 2011 from the Permanent Representative of Portugal to the United Nations addressed to the Secretary-General

I have the honour to convey to you herewith a concept note for the Security Council open debate, to be held on 30 November 2011, on implementation of the measures set out in the note by the President of the Security Council (S/2010/507) (see annex).

I should be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(Signed) José Filipe **Moraes Cabral**
Ambassador

Annex to the letter dated 18 November 2011 from the Permanent Representative of Portugal to the United Nations addressed to the Secretary-General

Concept note for the Security Council open debate on working methods

30 November 2011

1. Significant efforts have been made throughout the last two decades to enhance the transparency and efficiency of the Security Council. Since 1993,¹ when concern was raised over the increasing trend of the Security Council to close itself in informal consultations for decision-making,² until 2006, when a significant review of the practice of its working methods was undertaken, many positive developments can be identified. In particular, in the aftermath of the 2005 World Summit, whose outcome document recommended that the Security Council continue "to adapt its working methods so as to increase the involvement of States not members of the Council in its work",³ the Security Council undertook a concerted effort to review its working methods. To that end, it revitalized its Informal Working Group on Documentation and Other Procedural Questions and, in order to achieve greater focus and continuity, abandoned the practice of rotating the chairmanship each month from presidency to presidency and instead appointing a single chairman for the year. The results of this work were captured in a July 2006 note by the President of the Council (S/2006/507).

The Working Group has continued to address this matter in the following years. Currently, it has been working under the chairmanship of Bosnia and Herzegovina (following Japan in 2006, the Working Group was chaired by Slovakia, Panama and in 2009 and 2010 again by Japan). Open debates organized by the Council⁴ have afforded the participation of the wider United Nations membership in the Council's deliberations about its working methods.

¹ See brief history in Security Council Report Inc., Special Research Report 2007, No. 3 (18 October 2007) (www.securitycouncilreport.org). "The process of reform of the working methods really began in 1993 ... Several initiatives were launched reflecting concern by some Council members about the need to make the body more transparent and accountable, as well as more efficient and capable of handling various crises at once". In 1994, the Security Council organized, for the first time, an open debate on its methods of work. See also, for the balance of the practice on Security Council methods of work, the concept paper prepared by Belgium for the 2008 open debate of the Security Council (S/2008/528, annex) and the concept paper prepared by Japan for the open debate of 2010 (S/2010/165, annex). See Security Council Report Inc., Special Research Report 2010 (30 March 2010), for a thorough review of all the latest developments in the Security Council concerning its methods of work.

² Security Council Report Inc., Special Research Report 2007, No. 3 (18 October 2007), "In order to accommodate this increased workload, and to cope with continuous discussion on often very sensitive issues" ... the Council turned more and more to the practice of convening the vast majority of its meetings in closed consultations of the whole.

³ General Assembly resolution 60/1, para. 154.

⁴ The first open debate on working methods took place in 1994. Subsequent to the adoption of the note by the President (S/2006/507) and following the Arria-formula meeting in 2007 (Slovakia initiative), the Security Council organized an open debate in August 2008 (under the Belgian Presidency) focused on the implementation of the 2006 note. In 2010, during its Presidency of the Council, Japan organized the third open debate, on 22 April.

Outside the Security Council, the working methods have continued to be discussed in the General Assembly, mainly in the framework of the Open-ended Working Group on Security Council Reform⁵ and the ongoing rounds of intergovernmental negotiations on this matter. Several proposals were put forward and debated in these settings, including by groups of States or regional organizations, many of them referenced in the set of proposals submitted the so-called "small five group" (S5) (Costa Rica, Jordan, Liechtenstein, Singapore and Switzerland).

2. The Security Council open debate that is scheduled to take place in November, under the Portuguese Presidency, will be the fourth open debate of the Council on this issue. It will build on the previous one, in April 2010, a Japanese initiative, which preceded the adoption, on 26 July 2010, of a note reviewing all previous notes on Council working methods (S/2010/507). Indeed, the note, which contains 13 areas relating to Council practices, updated, further developed and expanded the previous note of 2006.⁶ The upcoming open debate will be an opportunity for the Council, with the participation of interested delegations from the wider membership, to look at the implementation of the note and identify positive trends and successful practices to increase efficiency and transparency. It could also identify possible shortcomings and areas in need of adjustments.

3. As in the last two debates, transparency, interaction with non-members and Council efficiency continue to be the principal themes suggested for discussion, with the aim of identifying ways of improving in all these aspects.

Interventions should aim at a constructive debate on the recent practice of the Security Council, including on the extent to which the above-mentioned note (S/2010/507) has been implemented and how the Council is making progress in this area. Suggestions regarding practical measures aiming at enhancing transparency, efficiency and Council interaction with United Nations members at large that could make a difference in the day-to-day business of the Security Council would be particularly helpful.

The debate could be oriented around different questions concerning these three areas, including the following:

- The importance of continuing and strengthening the trend of meeting more often in public, including through holding public briefings and debates, without prejudice to the usefulness of consultations of the whole in preparing Council decisions.
- Useful ways to increase efficiency in open debates (such as, foreseeing sufficient time for the preparation of useful inputs by Member States; devising practical ways of reducing meeting time and shortening interventions, while promoting wider participation in public meeting; ensuring that the outcome

⁵ Open-ended Working Group on the Question of Equitable Representation on and increase in the Membership of the Security Council and Other Matters Related to the Security Council.

⁶ The note, among other things, included a new section on "Security Council missions". The note added that, as a general rule, the purpose of initial remarks or ad hoc briefings delivered by members of the Secretariat was to supplement and update written reports of the Secretary-General. Some aspects of the seizure list were clarified further, regular communication with the Peacebuilding Commission was underlined and guidelines to the annual report were included as well.

documents of open debates reflect relevant inputs from all participants; promoting more focused contributions through the use of concept papers and indicative questions to be addressed).

- Practices to enhance interaction of the Security Council with actors such as concerned States or parties and regional and subregional organizations, through more frequent use of Arria-formula meetings as an informal, practical and useful way of Council interaction with individuals and other entities, or the use of informal interactive dialogues,⁷ as appropriate.
- Making the Council's interaction with troop-contributing countries more substantive, perhaps through the use of concept notes or indicative questions to be addressed.
- Enhancing the role of the Military Staff Committee.
- Improving the Council's interaction with the chairpersons of the Peacebuilding Commission and its country-specific configurations.
- Enhancing the role of the Presidents of the Council in the interaction with the wider membership, including through monthly briefings and informal wrap-up sessions at the end of each Presidency.
- Enhancing the interaction of the Presidents of the Council with other relevant United Nations bodies.
- Ensuring more informative annual reporting of the Security Council to the General Assembly by encouraging interactive consultations with wider membership before its conclusion and submission to the General Assembly and devising ways to ensure more substantive and analytical information on situations under the Council's consideration and on the work of the subsidiary bodies.
- Importance of "monthly assessments" by the Presidents on the work of the Council.⁸
- Ways to increase transparency, interaction and efficiency also in subsidiary organs work, in particular sanction committees, in furtherance of the recommendations of its former Informal Working Group on General Issues of Sanctions.⁹

⁷ Recently the Council has agreed to more innovative meeting "formats", such as the "informal interactive dialogue" (see Security Council Report Inc., Special Research Report No. 1 (30 March 2010), sect. 5.2).

⁸ See recent developments in S/2010/507 on the annual report to the General Assembly.

⁹ Established in 2000 (S/2000/319), initially chaired by Ambassador Anwarul Chowdhury of Bangladesh, the working group developed a thorough review of sanctions issues. At the end of 2006, the working group, chaired by Greece, submitted a comprehensive report (S/2006/997) on the subject, with focus on the following aspects: sanctions design, implementation, evaluation and follow-up; monitoring and enforcement; committees working methods; methodological standards or reports of sanctions monitoring mechanisms and criteria and best practices for a standard format for reports of sanctions monitoring mechanisms. The Council, by its resolution 1732 (2006) took "note with interest of the best practices and methods contained in the WG's report" and requested its subsidiary bodies to "take note as well", having considered thus fulfilled the mandate of the Working Group.

**Security Council**

Distr.: General
22 November 2011

Original: English

**Report of the Secretary-General on the United Nations
Support Mission in Libya****I. Introduction**

1. The present report is submitted pursuant to Security Council resolution 2009 (2011), in which the Council established the United Nations Support Mission in Libya (UNSMIL) for an initial period of three months, to assist and support Libyan national efforts to restore public security and order, and promote the rule of law; undertake inclusive political dialogue, promote national reconciliation and embark on the constitution-making and electoral process; extend State authority, including through strengthening emerging accountable institutions and the restoration of public services; promote and protect human rights, particularly for those belonging to vulnerable groups, and support transitional justice; take the immediate steps required to initiate economic recovery; and coordinate support that may be requested from other multilateral and bilateral actors, as appropriate.
2. The report reviews the latest political and security developments in Libya and the activities of UNSMIL since the adoption of resolution 2009 (2011) on 16 September, provides an overview of the humanitarian situation, and assesses the continuing challenges facing Libya as it undergoes a historic transition.

II. Political and security developments in Libya

3. The declaration of liberation by the National Transitional Council of Libya on 23 October 2011 in Benghazi signalled the end of armed hostilities in the country, eight months after the Qadhafi regime attempted to suppress a peaceful movement sparked on 15 February, when families held a protest calling for the release of a lawyer who was representing their claims in respect of the 1996 Abu Salim massacre. The fall of Sirte, which the Council had indicated in early October would trigger the declaration of liberation, and the death of Muammar Qadhafi on 20 October, came three days after Council forces announced the capture of the town centre of Bani Walid. These events followed weeks of intense street-to-street combat operations in both cities, and occurred against a backdrop of mounting pressure on the Council to achieve a decisive victory against heavily entrenched pro-Qadhafi forces and snipers in the two strongholds.
4. The declaration of liberation was widely hailed in Libya and beyond as marking a new beginning for the Libyan people, setting their country on the path to

national reconciliation and the building of a modern nation-state, based on the principles embraced by the revolution: democracy, human rights, the rule of law, accountability, respect for minority rights, the empowerment of women and the promotion of civil society. In this context, the Security Council unanimously adopted resolution 2016 (2011) on 27 October to terminate the no-fly zone and the provisions of resolution 1973 (2011) concerning the protection of civilians effective 31 October 2011.

5. With the declaration of liberation, the clock has started running on commitments made by the National Transitional Council in its Constitutional Declaration of 3 August 2011. In the latter, it was stipulated that the Council would relocate to Tripoli and establish an interim Government within 30 days; then, within a 90-day period, it would adopt electoral legislation and establish an electoral management body. Within 240 days, Libya would hold elections for a national congress, which would give democratic legitimacy to a new government and to the drafting of a new constitution. The constitution would be put to a popular referendum within 30 days of its adoption by the national congress, and Libya would proceed to its first elections according to the constitution.

6. On 31 October, having relocated to Tripoli, the National Transitional Council announced the appointment of Abdurrahim el-Keib as the country's new interim Prime Minister. Mr. El-Keib was selected by the Council from among nine candidates through a transparent voting process. He stated that he expected to form his Government within two weeks, within the 30-day period.

7. A major challenge continuing to face the National Transitional Council is the consolidation of security, particularly in Tripoli, where there are a large number of armed revolutionary "brigades". This challenge has been heightened by several confrontations that took place among various "brigades" during the last week of October and early November, which resulted in the deaths of several fighters and the wounding of police officers.

8. Despite the fact that the threat from pro-Qadhafi elements was largely confined to Sirte and Bani Walid following the fall of Tripoli on 21 August, a security breach on 14 and 15 October in neighbourhoods of the capital regarded as having supported the Qadhafi regime underlined the ability of such elements to undermine security arrangements in Tripoli, at least while Muammar Qadhafi remained at large. Two Qadhafi loyalists and one revolutionary fighter were reportedly killed in the incidents, which had been preceded by a number of drive-by shootings at various checkpoints in the city that week. Such incidents have not recurred since the death of Qadhafi.

9. To address these challenges, the new authorities have moved to bring the responsibility for the security situation in Tripoli under the umbrella of a Supreme Security Committee comprising three National Transitional Council members, pending the appointment of the new interim Government. Elsewhere in the country, local and military councils in a number of towns have taken initiatives to integrate existing revolutionary "brigades" into the structure of their military councils.

10. On 24 October, the day after the declaration of liberation, the Supreme Security Committee presided over a ceremony at which a number of brigades from Misrata handed over 500 light arms to the Ministry of the Interior. While limited in nature, the initiative was designed to send a public message that the handover of

weapons by armed groups is a priority for the Council and the future interim Government. The same day, National Transitional Council Chairman Mustafa Abdel Jalil also announced plans for the creation of a commission whose main tasks would be to reintegrate fighters, provide support to the wounded and the families of martyrs, and develop plans for the collection of weapons. The commission was established by decree on 29 October.

11. While these initiatives represent only initial steps, they reflect a growing acknowledgement of the need for a gradual redeployment of brigades away from population centres, in parallel with agreed mechanisms being put in place to provide security in major cities and towns. There is broad consensus that all heavy weaponry must be removed from city centres immediately; this would be followed by light arms collections, as well as decisions regarding the future of the revolutionary fighters. Options under consideration include integration into the police and armed forces, an assisted return to civilian life, or possible reorganization as border protection forces or security companies charged with securing public facilities and oil installations.

III. Activities of the United Nations Support Mission in Libya

12. The challenges facing the Libyan people and the new incoming Government are extraordinary. While Libyan officials have made it clear that they see the United Nations as a key partner at this critical time in Libya's post-conflict transition, they have also stressed the importance of full Libyan ownership of planning processes related to the rebuilding of Libya. Detailed discussions on the longer-term role and engagement of UNSMIL are expected to commence once the new interim Government takes office. However, the rapid deployment of leading elements of UNSMIL has enabled it to begin engaging in priority areas of its mandate.

A. Electoral support

13. Electoral assistance is one of the key priorities of UNSMIL, given that the National Transitional Council is committed to a first election within eight months, a challenging timeline in a country where there has been limited or no electoral experience in over 45 years. To meet this timetable, and in accordance with the Constitutional Declaration, legislation stipulating all elements of the electoral process is to be adopted within three months of the 23 October declaration of liberation, along with the creation of an electoral management body. Libyans are faced with a number of key decisions that will require broad consultations, including with civil society, so that political consensus can emerge around the following: delimitation of electoral boundaries and seat allocation; election of individual candidates or party-based elections; voter and candidate eligibility; women and minority representation; and the establishment of a credible electoral management body. Other critical issues include the creation of a voter register and a robust voter and civic education programme, the importance of which has been repeatedly emphasized by Libyan interlocutors.

14. Since the beginning of its mandate, UNSMIL, supported by two visits from the Director of the Electoral Assistance Division of the Department of Political Affairs of the Secretariat, has held meetings in Tripoli, Benghazi and other towns with

National Transitional Council members, representatives of the National Transitional Council political and legal committees and relevant subcommittees regarding the electoral process, in particular with respect to the electoral law and the future electoral management body. At the Libyans' request, UNSMIL deployed a legal/electoral systems expert to Benghazi to hold a series of meetings with the legal subcommittee tasked with formulating a draft law. UNSMIL provided information on various electoral systems and the implications of each.

15. To date, UNSMIL has discussed the necessary pre-conditions for the implementation of electoral activities and has emphasized the importance of broad consultations with civil society and other stakeholders. It has presented planning materials and comparative information on a variety of critical issues, including the electoral legal framework, the establishment of an electoral management body, the creation of a budget and related consultation processes. Once the designation of responsibilities for electoral matters is clarified by the National Transitional Council, UNSMIL's provision of advice is expected to intensify.

16. UNSMIL has also held preliminary meetings with the offices in charge of citizen registration, in order to advise the Libyan authorities on the database quality and the operational viability of the current system relevant to defining the framework necessary for developing a voter register. A comprehensive assessment of the quality of available population databases is needed as soon as possible in order to create an operational concept for voter registration processes.

17. In addressing Libyan requests for civic and voter education, UNSMIL, together with the United Nations Development Programme (UNDP), has undertaken initial steps to assist in the area of voter education and to advise on a consultation process for the electoral law. Additional United Nations agencies may be engaged in civic and voter education under the lead of UNSMIL. UNDP has held a series of meetings in Tripoli and Benghazi with academics, media outlets, religious leaders and civil society organizations on the development of proposals for a civic education outreach strategy. UNSMIL has also held meetings with women's civil society groups to discuss the needs of women relating to their participation in the elections and the political process. They underlined the importance of women having a role in the political process and in securing leadership positions in the future. The need for provisions within the election law to promote women's representation was also highlighted. Civil society discussions emphasized the importance of involving young people in decision-making, noting that they had fought on the front lines and were impatient for change.

18. UNSMIL has held discussions with other members of the international community, including non-governmental organizations, to prepare the ground for a coherent and coordinated approach to international electoral-related assistance.

B. Human rights, transitional justice and rule of law

19. Libya faces a heavy legacy of human rights violations from the Qadhafi regime, including decades of arbitrary detention, torture, arbitrary and extrajudicial executions and still unresolved disappearances. Added to this are the crimes against humanity, war crimes and other violations of human rights and international humanitarian law committed during the conflict, initially described in the 1 June

2011 report of the International Commission of Inquiry mandated by the Human Rights Council and in the indictments of the International Criminal Court.

20. My Special Representative called on all sides to respect human rights as the battles neared their end and issued appeals, in support of those of the National Transitional Council itself, that there should be no revenge even against those responsible for war crimes and other grave violations. However, there were disturbing reports that killings amounting to war crimes had been committed by both sides in Sirte. On 20 October, Muammar Qadhafi was captured and killed in Sirte, along with his son and Minister of Defence. Video footage showed that the former Libyan leader was alive at the time of his capture. Following calls for an investigation by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and many in the international community, on 24 October National Transitional Council Chairman Abdel Jalil announced the formation of a commission of inquiry.

21. While political prisoners held by the Qadhafi regime have been released, an estimated 7,000 detainees are currently held in prisons and makeshift detention centres, most of which are under the control of revolutionary brigades, with no access to due process in the absence of a functioning police and judiciary. Sub-Saharan Africans, in some cases accused or suspected of being mercenaries, constitute a large number of the detainees. Some detainees have reportedly been subjected to torture and ill treatment. Cases of individuals being targeted because of the colour of their skin have been reported. There have also been reports of women held in detention in the absence of female guards and under male supervision, and of children detained alongside adults.

22. While the National Transitional Council has taken some steps towards transferring responsibility for detainees from brigades to proper State authorities, much remains to be done to regularize detention, prevent abuse, bring about the release of persons whose detention should not be prolonged and ensure that future arrests are carried out only within the law. UNSMIL has pressed these concerns with authorities, including members of the Supreme Security Committee, which has been attempting to address the responsibilities of the Prosecutor General, the police and the different revolutionary brigades operating in Tripoli, particularly in relation to arrests and detention. Several hundred detainees were reportedly released over the Eid al-Adha holidays in Misrata, the Nafusa Mountains and Tripoli.

23. The Tawergha community has faced reprisals for the role of its members in the attacks by Qadhafi forces on Misrata during the conflict and their alleged responsibility for war crimes. Tawergha are reported to have been targeted in revenge killings or taken by armed men from their homes, checkpoints and hospitals and, in some cases, allegedly abused or executed in detention. Members of the community have fled to various cities across Libya.

24. A one-week OHCHR mission to Libya was facilitated by UNSMIL in early October, in order to identify areas where United Nations assistance might be requested. The OHCHR delegation held a series of meetings in Tripoli, Benghazi and Misrata on issues relating to the rule of law, in particular due process and detention, missing people, transitional justice and the role of women in the future political process. UNSMIL also facilitated a visit by staff of the International Commission of Inquiry to prepare for the members and investigators to return to Libya, as agreed with the National Transitional Council.

25. On 5 October, the National Commission for the Search and Identification of Missing Persons was established by decree. Its mandate covers clarifying the fate of all missing persons beginning from 1 September 1969, including revolutionaries, loyalists, mercenaries and others. The UNSMIL human rights team is in discussion with the Commission regarding potential international community assistance, including from the United Nations, in defining its institutional framework and in meeting its need for forensic and other expertise.

26. The acting Minister of Justice has made available to UNSMIL a draft law on transitional justice, based on the following four principles: establishing the truth behind violations of human rights; reconciliation among all members of Libyan society; ensuring that perpetrators of war crimes are put on trial; and compensation to victims. UNSMIL, advised by OHCHR, has offered to provide detailed comments on the draft law and has recommended that it be subject to consultation, including with civil society.

27. Under the former regime, the judicial system was characterized by corruption, inefficiency, lack of independence and the limited capacity of some of its members owing to insufficient training. Parallel institutions and contradictory legislative and regulatory frameworks were prevalent. Many judges and lawyers have played leading roles in the revolution and are now seeking to build a reformed judicial system, envisaging United Nations technical assistance in this regard. UNSMIL has begun to identify immediate needs, in preparation for the appropriate needs assessment. The majority of courts in the country are not fully operational owing to the lack of adequate security at court premises and the continued absence from work of judges and administrative staff. Priorities include legislation regarding the independence of the judiciary and the legal profession, and specialized training for judges and prosecutors in order to deal with an array of post-conflict litigation, including on issues relating to transitional justice.

28. As a sign of its commitment to fiscal transparency and accountability, the National Transitional Council has established an independent audit authority in accordance with its Constitutional Declaration. It is envisaged as the main body responsible for addressing corruption and ensuring transparency in government. Officials of the audit authority have expressed an interest in United Nations assistance to assess the needs of the institution and provide required support.

C. Public security

29. Although it is the intent of the Libyan authorities to return full responsibility for public safety and order to the Ministry of the Interior as early as possible, the Libyan Police has not yet been able to resume this responsibility. Revolutionary armed groups have assumed the main responsibility for law and order throughout the country, without appropriate training and outside a proper legal framework. A significant proportion of Libyan police officers in the Tripoli area are said to have returned to duty, and are organized and led by experienced police managers. However, their presence on the streets remains limited mainly to regulating traffic.

30. UNSMIL police advisers have established working contacts with the management level in the police section of the Ministry of the Interior. Identified urgent needs include adequate provision of basic equipment, training and assistance in integrating some of the revolutionaries into the police. The relevant department

head has expressed the need for "training for trainers" courses and assistance in reviewing the training curriculum and in preparing the Libyan Police for its responsibility for election security. Most of the police training institutes appear to be relatively structurally intact, but owing to looting, they lack training equipment and materials and furniture; with refurbishment, these institutes can become operational again within a few weeks.

D. Economic recovery and coordination of international assistance

31. Following the Paris Conference on Libya, held on 1 September 2011, the United Nations, together with the European Union, the World Bank, the International Monetary Fund (IMF) and other international partners, agreed with representatives of the National Transitional Council on a framework for a coordinated needs assessment to assess transitional requirements. The assessment would be conducted under the leadership of the National Transitional Council, in accordance with principles of post-conflict needs assessment agreed among the United Nations, the European Union and the World Bank, and would be undertaken in an accelerated manner. The assessments of transition requirements would be structured around sectors, each of which would be led by a National Transitional Council focal point with the support of a designated lead international organization. The objective of the assessments would be to define critical transitional needs and responses, in line with timelines defined by Libya, and to ensure coherent and demand-driven international engagement.

32. At a consultative meeting held in Tripoli on 9 October, which was co-chaired by the acting Minister of Finance and my Special Representative, the Libyan representatives indicated that the coordinated needs assessment process should be deferred until after the formation of the new interim Government, in order to ensure that necessary counterparts are in place and that assessment objectives are properly aligned with national priorities and approaches. In this context, the Libyan side expressed a desire not to receive bilateral assessment missions outside the coordination process.

33. The timing of sectoral assessments as envisaged in the coordinated needs assessment, and the mechanisms for coordination among the Libyan authorities, the United Nations and the international community, will be discussed as soon as possible after the interim Government takes office.

34. In early October, the Libyan authorities welcomed a joint mission of the World Bank and IMF, facilitated by UNSMIL, to conduct fact-finding on macroeconomic developments, public financial management and public expenditure policies. The mission appreciated a very open and constructive dialogue with the Libyan authorities. It observed that the loss of hydrocarbon income has caused an extensive deterioration in the fiscal and external accounts. With the collapse in oil production and the temporary unavailability of income from assets subject to sanctions, Libya is grappling with a constrained and uncertain budget envelope for the 2011-2012 period. While Libya's economy is expected to benefit from a rapid recovery, uncertainties remain with respect to the security situation and the political process. Regarding public financial management, the mission identified two main immediate priorities, namely, 2012 budget preparation and cash management owing to the current liquidity situation. The authorities have also requested assistance to

implement reforms in areas identified by the December 2010 IMF mission. The timing of follow-up technical missions is under discussion.

E. Public information and outreach

35. As manifested by the proliferation of newspapers and satellite news channels, a desire for freedom of the press and for the sharing of information has been prevalent from the outset of the revolution. Libyan interlocutors have identified the need for capacity-building in objective media reporting and have requested United Nations and other international assistance in this regard. In the light of the absence of media legislation, the Media Communications Committee of the National Transitional Council has signalled its intent to ensure the development of such legislation in order to ensure freedom of the press, while safeguarding the credibility and the integrity of journalism. It has developed plans to involve media law experts, journalists and other stakeholders in this process. At the request of the Media Communications Committee, UNSMIL is advising them on their own media strategy efforts.

36. The Public Information and Communication Section of UNSMIL launched its work by mapping the Libyan local press, particularly print media, as a preliminary step for designing a media outreach strategy for the Mission in preparation for upcoming voter education awareness campaigns for the electoral phases and other mandated activities. To explain the role of UNSMIL to the Libyan public at large, the section has been providing the local press with information on the mandate and activities of the Mission, which is also available at the UNSMIL website. In addition, the section provides media monitoring of local, regional and international press to UNSMIL and United Nations agencies, to keep them abreast of the latest developments.

IV. Arms and related material

37. A major security challenge confronting Libya and the international community is the threat posed by the proliferation of arms and related material, and its potential impact on regional and international peace and security. Of particular concern are existing and newly discovered stockpiles of chemical weapons and man-portable surface-to-air missiles, known as man-portable air defence systems. This concern has been reiterated by the Security Council in its resolution 2017 (2011).

38. Following a series of consultations in Tripoli on this issue, UNSMIL began facilitating informal coordination among the Libyan authorities, Member States providing or offering assistance, and the relevant international organizations, including the Organization for the Prohibition of Chemical Weapons and the International Atomic Energy Agency (IAEA). This informal group serves, on a temporary basis, to facilitate information flows on actual or suspected chemical, nuclear or other non-conventional arms, material and sites, including security conditions at such sites, and on offers of assistance by international partners.

39. The National Transitional Council forces appear to be controlling all relevant chemical and nuclear material sites; centralized command and control remains a concern. Although IAEA has recognized the importance of verifying and

safeguarding existing nuclear materials, its primary immediate concern is to account for nuclear material used for commercial and medical purposes. Regarding stocks of uranium fissile material ("yellowcake"), IAEA has noted that these do not pose a major proliferation concern or radiological hazard. Discussions with Libya are under way for possible missions by IAEA to cover both safeguards and nuclear security-related activities.

40. On 3 November, a team of the Organization for the Prohibition of Chemical Weapons carried out an inspection at the Ruwagha depot in the south-east of the country, the first since February 2011. It confirmed that the depot's full stockpiles of sulphur mustard and other chemical agents remained in place, and it took further measures to ensure the integrity of the stockpiles until destruction operations can resume under verification by the Organization for the Prohibition of Chemical Weapons. Importantly, however, two previously undeclared sites have been identified and secured by Libyan counterparts in recent weeks. The Libyan authorities officially notified the Organization for the Prohibition of Chemical Weapons of the discoveries on 1 November, and that organization will continue to work with the Libyan authorities to verify and destroy any newly declared stocks.

41. Libya has accumulated the largest known stockpile of man-portable defence systems outside those countries that produce such systems. Although thousands were destroyed during the seven-month NATO operations, there are increasing concerns about the looting and likely proliferation of these portable defence systems, as well as munitions and mines, and about the potential risk to local and regional stability. Collaboration between the Ministry of Defence and international partners has led to the dismantling of large numbers of man-portable defence system sites across the country, particularly in the west. However, there are hundreds more suspected sites that remain to be inspected. While the support of the Libyan authorities in this regard has been critical to efforts already under way on this front, the formation of the interim Government should accelerate the process.

42. The extensive contamination of areas from landmines and explosive remnants of war across Libya continues to pose a serious threat to the civilian population, including internally displaced persons, and to humanitarian workers. To date, a total of 84 accidents caused by unexploded ordnance and mines have been reported. Large quantities of unexploded ordnance and ammunition stockpiles have been identified in residential areas, including in schools and hospitals. Stockpiles appear to have been moved into populated areas by Qadhafi forces to conceal them from potential airstrikes; they mostly remain unsecured and those in Sirte and Bani Walid in particular require immediate attention. The Joint Mine Action Coordination Team has coordinated the efforts of 10 clearance teams; to date, they have cleared a total of 53,010 items, including from 58 schools contaminated with explosive remnants of war, and have delivered risk education to over 20,000 direct beneficiaries.

43. Unsecured ammunition storage areas damaged by NATO bombings and the internal fighting represent another pressing problem. Over 440 such storage areas were bombed during the NATO campaign, in some cases leading to widespread contamination in the areas surrounding the sites. Although clearance of ammunition storage areas has been prioritized, only one team, currently operating in Tobruk, has so far been deployed, owing to limited resources and funding.

V. The humanitarian situation

44. The Libyan people have demonstrated exceptional resilience and a strong capacity throughout the conflict to meet the majority of the humanitarian needs of those affected. Across the country, local councils and communities have mobilized to support the humanitarian needs of internally displaced persons, with the assistance of national and international humanitarian partners. To support them, the Humanitarian Coordinator has taken steps to ensure that residual needs of vulnerable groups will still be met while the overall humanitarian effort in Libya is winding down.

45. As commercial activity has resumed, food commodities have become readily available, schools have reopened and essential services, including water and electricity, have been mostly restored. However, the lack of liquidity and increased prices have reduced purchasing power and have served to increase the food insecurity of the poorer and more vulnerable segments of Libyan society.

46. The return of displaced populations to Bani Walid and Sirte remains constrained by the continued lack of provision of such essential services as electricity, fuel, water and sewerage systems, the widespread contamination of areas with explosive remnants of war, the extensive destruction of property, and the lack of livelihood sources, as well as protection concerns regarding those perceived by Libyans to have supported the previous regime.

47. In addition, as at early November, over 150,000 people were estimated to remain displaced within Libya. In addition to those who fled from Bani Walid and Sirte, there are concerns about Libyan minority groups, including some 30,000 to 35,000 Tawergha who were displaced from their areas of residence following allegations of abuses perpetrated by some members of their community during the conflict.

48. There are also serious concerns about the plight of many third country nationals, notably migrants from sub-Saharan Africa, refugees and asylum-seekers, who have become more vulnerable to human rights violations and abuses. Their plight has been exacerbated by the lack of a legal framework for managing migration. To address their needs, a number of initiatives are being put in place by the National Transitional Council, supported by UNHCR and the International Organization for Migration (IOM), including the establishment and refurbishment of the Towisha transit centre. In consultation with relevant authorities, IOM has resumed voluntary repatriation of these nationals to their countries of origin. However, the principal challenge remains verification of citizenship and the issuance of travel documents, since many third country nationals have no means of identification.

49. Hospitals are functioning, but they have been overloaded with the war wounded and, in some places, have struggled to cope with additional patient admissions amid shortages of trained staff. In areas where fighting took place, support is needed for the rehabilitation of the wounded and of persons with long-term physical disabilities, as well as for people with psychosocial and mental health needs resulting from the conflict.

50. Based on a series of assessments, the Humanitarian Coordinator has led the planning for a common humanitarian action plan to cover residual humanitarian

needs of vulnerable groups from 1 October to 31 December. The action plan also outlines the exit strategy for the phasing out of humanitarian assistance in preparation for the transition to recovery and development programming. The plan was presented to bilateral representatives in Tripoli on 27 October.

VI. Deployment of the United Nations Support Mission in Libya

51. Following the adoption by the Security Council of its resolution 2009 (2011), UNSMIL moved promptly to establish its presence on the ground in Libya. As at 31 October, a total of 43 international staff members, including the Deputy Special Representative of the Secretary-General (who is also the Resident and Humanitarian Coordinator) and experts in substantive priority areas, had been deployed to Libya: 40 in Tripoli, and 3 in Benghazi. Three additional international mission support staff members were also deployed to Brindisi. Three national staff have thus far been recruited. The United Nations country team is also gradually resuming its operations, in close coordination with UNSMIL.

52. On 22 October, the Ministry of Foreign Affairs formally allocated a compound of offices for UNSMIL to use as its mission headquarters. A mission support team is currently preparing the compound for occupation by UNSMIL later in the year.

53. UNSMIL has held several constructive discussions with the Ministry of Foreign Affairs on the draft status of mission agreement, with a view to concluding the agreement upon the formation of the interim Government and the appointment of the Minister for Foreign Affairs.

VII. Safety and security

54. The overall security situation in Libya is permissive for most of the country. Security levels in the country range from level 3 to level 6, with both Tripoli and Benghazi currently categorized as level 4 and Sabha and the south remaining at level 6. In Tripoli, there has been a significant reduction in the number of checkpoints. Although the security situation has largely stabilized, celebratory shooting has remained a concern. Since the declaration of liberation on 23 October, an average of three to five casualties per week have been reported by hospitals in Tripoli. Towards the end of the reporting period, a number of clashes among rival revolutionary brigades in the capital were reported, which resulted in the deaths of several fighters. Although there have been no incidents in which United Nations assets or personnel were targeted, the potential risk posed by the current security situation has thus far necessitated the use of armoured vehicles as the mandatory means of transport for personnel in Tripoli, limiting the ability of UNSMIL to support visiting missions.

VIII. Observations

55. Accompanied by the President of the General Assembly, I paid my first visit to the new Libya on 2 November, to congratulate the Libyan people on their liberation and to reiterate the Organization's commitment to assist and support their country's transition to democracy. In my meetings with Abdel Jalil, Chairman of the National

Transitional Council, Prime Minister El-Keib and members of the National Transitional Council, I looked forward to their formation of an inclusive, representative government. I assured them of the commitment of the United Nations to assist as requested in their holding of elections and in their efforts to promote transitional justice and national reconciliation and to ensure public security, respect for human rights and the rule of law. I urged them to enhance the representation of women and to engage in consultation with civil society, including young people and women.

56. I conveyed these same messages in my meeting with civil society representatives and acknowledged the latter's critical role in the success of the revolution. I encouraged them to stand up for the above-mentioned principles, but to also exercise some flexibility and patience when expectations could not be met as rapidly as hoped.

57. I was deeply shocked by my visit to an agricultural warehouse in the Khallital-Ferjan neighbourhood of Tripoli, where elements of the Qadhafi regime had detained civilians in inhuman conditions, subjected some to torture, and massacred as many as they could and burned their bodies. The international community must support the efforts to establish the fate of missing persons and to bring the perpetrators with the greatest responsibility for these crimes to justice.

58. The challenge of national reconciliation is of overwhelming importance. Regrettably, my call and those of others for the remaining supporters of the former regime to cease fighting were not heeded, and the final weeks of conflict added to the death toll, serious injuries, civilian suffering, displacement, destruction and further violations. However deep the anger at the war crimes committed by the former regime, the National Transitional Council must continue its calls to avoid acts of revenge and must investigate abuses by its own fighters. I hope that the interim Government will move swiftly to reconstruct neighbourhoods that suffered destruction on either side of the conflict, from Misrata and Zawiya to Bani Walid and Sirte, and that it will enable displaced persons to return to their homes.

59. I believe that the leaders of the new Libya are truly committed to building a society based on respect for human rights. However difficult the circumstances, it is essential to take the earliest possible action to end arbitrary detention and prevent abuses and discrimination against third country nationals and against any group of Libya's own citizens.

60. The revolutionary fighters, many of whom are young people, have earned great respect. The international community must continue to give priority to medical treatment for the war wounded, and to the trauma suffered by so many, especially children and women. In addition, these fighters must be assured a future in new security forces or in civilian life, as Libya moves from multiple armed brigades to unified State security forces and brings weapons under control.

61. The new authorities are already inviting cooperation to address the securing and disposal of chemical weapons and nuclear material, as well as the proliferation of other weapons and ammunition. They will need continuing assistance in this task, and both Libya and its neighbours will require assistance in managing their borders and the flows of both weapons and people. The United Nations has undertaken to work closely with the African Union and other regional bodies to assist Libya's

neighbours and the Libyan Government in their efforts to address these concerns, including through enhanced information-sharing mechanisms and border controls.

62. Foremost, the National Transitional Council and Libyan civil society are looking to the United Nations to support the country's electoral path to a democratic State. Throughout its engagements to date, UNSMIL has consistently conveyed the message that the elections constitute a Libyan-led process, and while the United Nations can provide assistance and support in line with its mandate, it is the Libyans who must agree on the electoral system and other essential elements of the electoral legislation. Nonetheless, UNSMIL is encountering very high expectations, with interlocutors requesting strong United Nations involvement as a guarantor of the integrity of the electoral process.

63. Throughout our planning for the post-conflict period, I have emphasized the need for the international community to approach Libya with full respect for the importance of Libyan ownership and for its own capabilities. Despite our eagerness to assist the new Libya, it is critical that the United Nations and the international community remain measured and coordinated in their engagement with the Libyan authorities during this time of transition, following closely their sense of immediate priorities and taking care to avoid imposing overambitious expectations or longer-term programmes.

64. In proposing the establishment of UNSMIL, I recommended a three-month initial deployment to allow for in-country engagement in further defining the needs and wishes of Libya concerning United Nations support, while delivering urgent advice and assistance. The prolongation of the conflict has delayed the formation of the interim Government and other developments essential for the dialogue and assessment of needs required for mission planning although, as reported above, UNSMIL has been able to undertake significant preparations within the areas of its mandate. In this context, I recommend a three-month extension of the mandate, to enable me to revert to the Security Council with proposals for adjustments reflecting the wishes of the interim Government concerning future United Nations support.

65. The Libyan people have created for themselves an extraordinary opportunity and now face extraordinary challenges. They look to the United Nations to be a key partner as they address these challenges, and we must devote our best efforts to supporting them.

66. I commend the Libyan authorities and people for their historic accomplishments and I thank them for the close collaboration that they have provided to the United Nations. I also thank Libya's international development partners, regional organizations and others for their ongoing contributions in securing peace and stability in Libya, as well as the staff of UNSMIL and the United Nations system for their efforts to support Libya's transition under the leadership of my Special Representative, Ian Martin.



Security Council

Distr.: General
28 November 2011

Original: English

**Letter dated 21 November 2011 from the Chair of the
Security Council Committee pursuant to resolutions 1267 (1999)
and 1989 (2011) concerning Al-Qaida and associated individuals
and entities addressed to the President of the Security Council**

I have the honour to transmit herewith the report of the Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities presenting its position on the recommendations contained in the eleventh report of the Analytical Support and Sanctions Monitoring Team (S/2011/245) (see annex).

I should be grateful if the present letter and its annex could be brought to the attention of the members of the Security Council and issued as a document of the Council.

(Signed) Peter Wittig
Chair

Security Council Committee pursuant to resolutions 1267 (1999) and
1989 (2011) concerning Al-Qaida and associated individuals and entities



Recommendations contained in the eleventh report of the Analytical Support and Sanctions Monitoring Team: position of the Committee

I. Introduction

1. On 22 February 2011, the Analytical Support and Sanctions Monitoring Team submitted its eleventh report (S/2011/245) to the Security Council Committee established pursuant to resolution 1267 (1999) concerning Al-Qaida and the Taliban and associated individuals and entities.¹ The Chair of the Committee transmitted the report to the President of the Security Council on 13 April 2011 (S/2011/245).

2. In response to each of the eight reports that the Monitoring Team has submitted to it since December 2005, the Committee has brought to the attention of the Security Council the Committee's position on a number of the recommendations contained therein.

3. The recommendations contained in the eleventh report of the Monitoring Team were submitted prior to the adoption of Security Council resolutions 1988 (2011) and 1989 (2011), which, inter alia, changed the scope and mandate of the Committee and established a new Committee pursuant to resolution 1988 (2011) to oversee the relevant measures and a new sanctions list comprising individuals, groups, undertakings and entities associated with the Taliban in constituting a threat to the peace, stability and security of Afghanistan.

4. In the present position paper, therefore, the recommendations addressed are referred to in the light of the changes brought about by the adoption of resolutions 1988 (2011) and 1989 (2011). It should also be noted that some of the recommendations contained in the eleventh report of the Monitoring Team go beyond the current competence of the Al-Qaida sanctions Committee and, in such cases, the Committee has limited its positions to factual citations to the same resolutions, by which its mandate was modified.

5. The present position paper aims to draw attention to those recommendations made by the Monitoring Team that the Committee found to be of particular importance and relevance to its current and future work. The Committee welcomes the continued efforts of the Monitoring Team to identify ways to improve the implementation and the effectiveness of the sanctions measures, and it is of the opinion that all Member States should be made aware of, and take into account, the Monitoring Team's recommendations. The Committee also wishes to note that a number of the recommendations were of relevance to the Security Council itself, particularly during the period prior to the adoption of resolutions 1988 (2011) and 1989 (2011) on 17 June 2011.

¹ On 30 June 2011, the Security Council decided to revise the name of the Committee to: Security Council Committee pursuant to resolutions 1267 (1999) and 1989 (2011) concerning Al-Qaida and associated individuals and entities (see S/2011/2/Rev.2).

II. The Al-Qaida Sanctions List and the 1988 sanctions list

Drawing a line between the Taliban and Al-Qaida sections of the Consolidated List (para. 16)

6. The Committee recalls that the Security Council, in its resolution 1988 (2011), indicated that it had considered the Committee's deliberations on the recommendation of the Monitoring Team in its eleventh report that Member States treat listed Taliban and listed individuals and entities of Al-Qaida and its affiliates differently in promoting peace and stability in Afghanistan. As a result of the adoption of the same resolution, the Taliban and Al-Qaida sections, as previously reflected on the Consolidated List, have been separated. At the same time, the Security Council, in both resolution 1988 (2011) and resolution 1989 (2011), requested the Monitoring Team to submit to the Committee within 90 days after the adoption of the same resolutions a written report and recommendations on linkages between Al-Qaida and those individuals, groups, undertakings or entities eligible for designation under paragraph 1 of resolution 1988 (2011), with a particular focus on entries that appear on both the Al-Qaida Sanctions List and the 1988 sanctions list, and thereafter to submit such a report and recommendations periodically (Security Council resolution 1988 (2011), annex, para. (u), and Security Council resolution 1989 (2011), annex I, para. (aa)). The Committee, recognizing that there are in some cases linkages between Al-Qaida and the Taliban, will continue to consider in a comprehensive manner questions related to those linkages.

Strengthening the Committee's interaction with Afghanistan (para. 21)

7. The Committee recalls that the Security Council welcomed, in paragraph 29 of resolution 1988 (2011), the Government of Afghanistan's desire to assist the 1988 sanctions Committee in the coordination of listing and delisting requests and in the submission of all relevant information to the Committee. The Committee further recalls that in paragraph 16 of resolution 1988 (2011) the Security Council called upon Member States, when considering the proposal of a new designation, to consult the Government of Afghanistan on the designation prior to submission to the Committee, where appropriate. Similarly, in paragraph 19 of the same resolution the Council called upon Member States to coordinate their delisting requests, as appropriate, with the Government of Afghanistan to ensure coordination with the peace and reconciliation efforts of the Government of Afghanistan.

Role of the Monitoring Team in providing a link between discussions in Afghanistan and United Nations Headquarters (para. 22)

8. The Committee notes that the Security Council, in paragraph (m) of the annex to resolution 1988 (2011), accorded the Monitoring Team the responsibility to consult with Member States and other relevant organizations and bodies, including the United Nations Assistance Mission in Afghanistan, and engage in regular dialogue with representatives in New York and in capitals, taking into account their comments.

Tools to facilitate Committee consideration of delisting requests from the Government of Afghanistan (para. 23)

9. The Committee recalls that on 24 May 2011, prior to the adoption of resolutions 1988 (2011) and 1989 (2011), it had requested the Monitoring Team to prepare a modalities paper to further consider the tools, such as a checklist, that could be used by the Committee to streamline its consideration of delisting requests from the Government of Afghanistan. In accordance with paragraph 3 of resolution 1989 (2011), the Committee transmitted responsibility for any appropriate follow-up on this request to the Committee established pursuant to resolution 1988 (2011).

New format for the Consolidated List (para. 25)

10. The Committee welcomes the efforts by the Monitoring Team to interact closely with various list providers and the private financial sector in the development of a new format for the Consolidated List. The Committee shares the view that United Nations sanctions lists should be harmonized in the interest of greater coherence and consistency across the United Nations system.

III. Implementation of the sanctions

Moving beyond resolution 1904 (2009)

The Ombudsperson's ability to recommend delisting or to support continued listing (para. 37)

11. The Committee recalls the enhanced Ombudsperson procedure agreed in paragraphs 21 to 23 of resolution 1989 (2011). The Committee notes that the Ombudsperson is now mandated to make recommendations to the Committee and that a recommendation to delist triggers delisting, unless all Committee members object to the recommendation or the issue is referred to the Security Council. This has further enhanced the provision of clear and fair procedures.

Increasing the transparency of the Committee's dealings with the Office of the Ombudsperson (para. 38)

12. The Committee agrees on the importance of transparency. If, and in what form, the reports of the Ombudsperson should be made publicly accessible requires further careful consideration. The Committee recalls that it has undertaken other initiatives to enhance the transparency of the regime. For example, it has written to the Ombudsperson setting out its considerations on each delisting case, and the Ombudsperson has passed this information on to the relevant petitioner.

The Ombudsperson process and legal challenges in national or regional courts (para. 43)

13. The Committee recalls that, in paragraph 26 of resolution 1989 (2011), the Security Council requested that Member States and relevant international organizations and bodies encourage individuals and entities that are considering challenging or are already in the process of challenging their listing through national and regional courts to seek removal from the Al-Qaida Sanctions List by submitting delisting petitions through the Office of the Ombudsperson.

The role of Member States

Inviting States to meetings of the Committee (para. 44)

14. The Committee endorses the Monitoring Team's recommendation to give States that support a listing or delisting an opportunity to appear before the Committee to discuss the case and thus allow the Committee to take a more informed decision. The Committee, where appropriate, will also consider extending invitations to attend meetings not only to designating States and States of nationality and of residence, but also to other relevant States identified by the Committee.

Obtaining information on ongoing legal investigations (para. 45)

15. The Committee recalls that the Security Council, in paragraph 17 of resolution 1989 (2011), encouraged Member States and relevant international organizations and bodies to inform the Committee of any relevant court decisions and proceedings so that the Committee can consider them when it reviews a corresponding listing or updates a narrative summary of reasons for listing.

Consultations with national judicial bodies to reaffirm the case for listing at the time of the periodic review (para. 46)

16. The Committee notes that the Security Council, in paragraph 50 of resolution 1989 (2011), encouraged designating States to inform the Monitoring Team whether any national court or other legal authority has reviewed an individual's case and whether any judicial proceedings have begun, and to include any other relevant information when submitting the standard form for listing. The Committee also encouraged designating States to reaffirm the case for listing at the time of the triennial review described in paragraph 40 of resolution 1989 (2011), or to submit a delisting request, without prejudice to the Committee's decision to maintain or remove the listing.

IV. Assets freeze

Research on the size and scope of non-profit organizations (para. 53)

17. The Committee took note of the Monitoring Team's recommendation regarding safeguards that can help Member States to reduce the risk of Al-Qaida and Taliban financiers using non-profit organizations for terrorist purposes, and will continue to study the recommendation.

Review of resolution 1452 (2002) (para. 57)

18. The Committee supports the recommendation that the Security Council consider the reform of resolution 1452 (2002) with a view to improving its procedures and giving more authority to Member States. In this connection, the Committee notes that the Security Council, in paragraph 57 of resolution 1989 (2011), directed the Monitoring Team to review the Committee's procedures for granting exemptions pursuant to resolution 1452 (2002) and to provide recommendations for how the Committee can improve the process for granting such exemptions.

V. Travel ban

Technical assistance to improve implementation of the travel ban (para. 60)

19. The Committee encourages States and relevant international organizations to provide all possible relevant assistance in the area of border control and sanctions implementation in general to those States that need it. The Committee recognizes that such assistance could be provided bilaterally, as well as through a range of organizations, such as, inter alia, the International Criminal Police Organization (INTERPOL), the International Organization for Migration, the World Customs Organization and the International Civil Aviation Organization, among others. The Committee will also undertake to explore areas for possible cooperation with other Security Council Committees in this field to search for synergies in assisting Member States to enhance their implementation of the travel ban.

Travel ban exemption procedure (para. 61)

20. The Committee endorses the proposal by the Monitoring Team that the Team consult Member States on the available procedures to request exemptions from the travel ban measure, with a view to determining the likely amount of cross-border travel by listed parties, and how it could be controlled more efficiently.

Application of the travel ban (para. 63)

21. The Committee encourages Member States to make early contact with the secretariat of the Committee on any issue concerning the application of the travel ban or any other sanctions measure in specific cases. The Committee intends to further consider the specific tools that can be employed to raise awareness of the scope and limits of the travel ban.

VI. Arms embargo

Preventing the use of the Internet for explosives instruction (para. 71)

22. The Committee takes note of the Monitoring Team's recommendation regarding the sanctions regime and preventing the use of the Internet for direct or indirect supply, sale or transfer of technical advice, assistance or training related to military activities, and will continue to study the recommendation.

VII. Conclusion

23. The Committee would like to thank the Monitoring Team for its eleventh report and the valuable recommendations contained therein. The Committee would like to underline the special importance of these recommendations, many of which were considered and incorporated into resolutions 1988 (2011) and 1989 (2011).



Security Council

Distr.: General
22 November 2011

Original: English

Letter dated 22 November 2011 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

I have the honour to transmit herewith a letter from the Minister for Foreign Affairs of the State of Eritrea, Osman Saleh Mohammed (see annex), in connection with the new draft resolution on sanctions circulated to the members of the Security Council.

I would appreciate it if the present letter and its annex could be brought to the attention of the members of the Security Council and circulated as a document of the Council.

(Signed) Araya Desta
Ambassador and Permanent Representative



Annex to the letter dated 22 November 2011 from the Permanent Representative of Eritrea to the United Nations addressed to the President of the Security Council

It has come to Eritrea's attention that a new version of a draft resolution seeking to impose "additional sanctions against Eritrea" has been circulated to members of the United Nations Security Council. In this latest draft, one permanent member, which is the principal driving force behind the anti-Eritrea campaign, has resorted to more crafty language. But this cannot hide the salient fact that the gist of new measures contained in the draft amount to punitive economic sanctions that will arrest economic development and cause severe hardship to the Eritrean people.

These measures include, among other things, (i) a plethora of prohibitive banking impediments, encumbrance of foreign trade transactions and "oversight" of all mining revenues, intended to paralyse burgeoning foreign direct investment in the country by rendering the business environment dysfunctional; (ii) criminalization and curtailment of the 2 per cent recovery tax that Eritrea collects from its citizens in the Diaspora through subtle requirements and indictment of Eritrean citizens (operative paragraphs 10 and 11); (iii) inspection of Eritrean cargo at seaports, airports and on the high seas and in transit by all States and "in particular States of the region" (operative paragraphs 7 and 7 bis); and (iv) application of travel bans and asset freezes on selected Government officials (operative paragraphs 8, 8 bis and 9).

These measures will not only impair Eritrean economic and social development and the livelihood of its people, but are also fraught with dangerous security implications. The provision that would give a green light to powers that harbour belligerent intentions against Eritrea to inspect at will any cargo destined to the country will disrupt maritime traffic, curtail Eritrea's right of innocent passage, and otherwise sanction and embolden encroachment on its sovereignty by its adversaries. Surely, this provocative provision cannot promote regional peace and stability.

The travel ban on selected Government officials is primarily designed to reinforce the image of a "pariah State" that Eritrea's enemies have been peddling for ulterior political motives. The current list is a reduced version of what Ethiopia had cobbled earlier and curiously adds a senior official who is not even mentioned in the report of the Monitoring Group on Somalia and Eritrea.

There are malignant procedural and substantive ramifications in the efforts under way that warrant profound scrutiny. To begin with, Eritrea is still waiting for a response from the Security Council to its request that the Head of State, President Isaias Afwerki, address the Council on Eritrea's views and initiatives for peace, stability and economic cooperation in the Horn of Africa.

Secondly, despite Eritrea's comprehensive submissions, the whole drive to punish Eritrea, and indeed the current draft resolution, continues to be based on unfounded but gross accusations of Eritrea's "destabilizing regional role" and support to "terrorist acts" etc. In this regard, Eritrea wishes to underline the following:

1. Within the context of the Qatari mediation, Eritrea has taken positive and constructive steps to resolve its problems with Djibouti. It has

conscientiously refrained from reacting to Djibouti's repeated provocations and hostile campaigns. It remains strongly committed to the Qatari initiative which it fully trusts will lead to the resumption of friendly relations between the two neighbourly countries.

2. On Somalia, Eritrea reaffirms, for the umpteenth time, that it does not favour one side against the other. As it clearly demonstrated in its "response" and as even the report of the Monitoring Group substantiates (at least for the period after resolution 1907 (2009), it does not provide military or financial support for Al Shabab, an organization that is hostile to Eritrea's secular Government. In regard to the Transitional Federal Government, it is now obvious that it is not Eritrea, but others, who trumpet their recognition of the Transitional Federal Government as the legitimate Government, that are actively working to undermine and weaken it. Over the past two years, Eritrean officials have repeatedly met with Transitional Federal Government representatives, as the Eritrean position remains that the only way forward in Somalia is a Somali-owned inclusive political process.
3. On the issue of terrorism, Eritrea wishes to bring to the attention of the Security Council its track record in genuinely and successfully fighting terrorism and extremism, which pose a threat to its harmonious society and socio-economic development. That is why Eritrea finds extremely offensive any attempt — for which no evidence has been or can be presented — to associate it with terrorism. These accusations, such as the African Union summit bomb plot of January 2011, the recent Kenyan allegations of arms shipments to Baidoa and the earlier Ethiopian charges of weapons deliveries to Kismayo and the deployment of 2,000 Eritrean troops in 2006, are false and will be proven to be false.
4. In stark contrast to its busy and hasty consideration of Eritrean views and actions, the Security Council continues to maintain (over several years) a deafening silence of Ethiopia's blatant violation of international law and its occupation of sovereign Eritrean territory, acts that constitute a clear threat to regional peace and stability.

In view of all these realities and in the interests of justice and peace, the Government of Eritrea calls on the Security Council:

- (i) To act with neutrality, impartiality and fairness as it discharges its functions in the maintenance of international and regional peace and security;
- (ii) To annul resolution 1907 (2009) and all its sequels on the basis of a just and fair appraisal of the realities on the ground;
- (iii) To take resolute measures to bring Ethiopia into compliance with international law and relevant Security Council resolutions.

I wish to remind you that Eritrea still awaits a positive response to its request for the Eritrean President to address the Security Council.

(Signed) Osman **Saleh**
Minister

**Security Council**

Distr.: General
22 November 2011

Original: English

**Letter dated 22 November 2011 from the Secretary-General
addressed to the President of the Security Council**

I have the honour to refer to the United Nations Operation in Côte d'Ivoire (UNOCI) and the United Nations Mission in Liberia (UNMIL), as well as to Security Council resolution 1609 (2005) and 2008 (2011), in which the Council authorized the temporary redeployment of military and police personnel, as appropriate, between UNMIL and UNOCI to address challenges that cannot be managed within the authorized personnel ceiling of a given mission. I also wish to refer to the letter from the President of the Security Council to me dated 27 September 2011 (S/2011/594) noting the return of the three armed helicopters from UNOCI to UNMIL and endorsing my recommendation that options be kept open for the possible use of those helicopters from UNMIL to address security challenges in Côte d'Ivoire, including Abidjan, and for the possible temporary relocation of the helicopters to UNOCI during the upcoming Ivorian legislative elections. Furthermore, I am grateful for the Security Council's approval of the temporary transfer from UNOCI to UNMIL of one infantry company and three formed police unit platoons to reinforce UNMIL during the period of the Liberian elections. I wish to inform you that the process for returning those units to UNOCI has been started and is expected to be completed by 30 November 2011.

President Alassane Ouattara and his Government have taken a number of steps towards restoring normalcy in Côte d'Ivoire, including the reconstitution of the security and rule of law institutions, the filling of key positions in the armed forces, police and gendarmerie, and the transfer of law and order tasks to the responsible law enforcement agencies. Despite these positive developments, the security situation in Côte d'Ivoire, particularly in Abidjan and in western Côte d'Ivoire, remains highly volatile.

Progress in developing a new national disarmament, demobilization and reintegration programme and in the collection of weapons, including from civilian communities, remains slow. The Forces républicaines de Côte d'Ivoire, which assumed responsibility for restoring security, remains an amorphous, ill-equipped force and is wrestling with discipline-related challenges as well as command and control issues. A number of regular and irregular armed elements that remain loyal to former President Laurent Gbagbo, including from the Young Patriots and the former Republican Guard, continue to have access to arms and could pose a significant threat during the legislative elections. In addition, grievances by security personnel with regard to the process of reconstituting the security forces, which may have contributed, inter alia, to a shooting incident in Gendarmerie barracks in



Abidjan during the night of 15 October 2011, carry the risk of being further exploited by spoilers before and during the Ivorian legislative elections.

In western Côte d'Ivoire, cross-border movements of armed groups and weapons have become a direct security threat to Côte d'Ivoire and Liberia, as well as a destabilizing factor in the subregion. UNOCI continues to report a number of security incidents in western Côte d'Ivoire, most significantly an attack in mid-September 2011 on two border villages in western Côte d'Ivoire which resulted in at least 21 persons being killed, several wounded, and some 30 houses being burned, and incidents in late October and early November 2011 in that area which resulted in at least four civilians being killed. Meanwhile, the humanitarian situation resulting from the Ivorian post-elections crisis remains a challenge, with some 195,000 persons displaced inside the country and some 182,000 Ivorian refugees in neighbouring countries, including some 138,000 in Liberia, who have not yet returned to their homes because of security concerns.

In preparation for the upcoming Ivorian legislative elections, UNOCI conducted a threat assessment and found that there is a potential risk that spoilers could seek to disrupt the electoral process. UNOCI anticipates a deterioration of the already volatile security situation, in particular in Abidjan and in western Côte d'Ivoire, where elections risk exacerbating political grievances and existing tensions, including between communities, which could lead to violence in various parts of the country. UNOCI has assessed that it requires reinforcement of its existing capabilities as part of its prudent planning in order to be in a position to deter and respond to possible security threats in a timely manner. The proposed redeployment of uniformed personnel and assets from UNMIL to UNOCI, as detailed below and during the suggested specific time frame, would not jeopardize the ability of UNMIL to carry out its mandate. The situation in Liberia will be kept under constant review.

As indicated in my previous letters, in particular my letters to the President of the Security Council of 13 June 2011 (S/2011/351) and 15 September 2011 (S/2011/577), the three armed helicopters from UNMIL proved to be an invaluable asset in Côte d'Ivoire in preventing attacks against civilians, as well as in deterring cross-border movements of armed groups. I am grateful for the Council's authorization of the continued use of the armed helicopters from UNMIL to address security challenges in western Côte d'Ivoire, conveyed in the letter from the President of the Security Council of 27 September 2011 (S/2011/594).

However, considering the significant risks of holding legislative elections in such a volatile security environment, the use of the armed helicopters throughout the country, and not only in the border areas, would provide UNOCI with the necessary deterrence, protection and surveillance capability, including in support of ground operations. In particular, it would enable the Mission to respond in a timely manner to security incidents throughout the country, while at the same time ensuring adequate monitoring of the border area with Liberia.

Furthermore, as you will recall, in my letter of 13 June 2011 (S/2011/351), I had advised you that the Secretariat was exploring various options to deploy a replacement unit to UNOCI of two military utility helicopters. This deployment has not yet materialized despite efforts to generate these assets. Therefore, as indicated in that letter, it would be prudent to keep open the option whereby the two UNMIL military utility helicopters could be temporarily redeployed to UNOCI in order to

provide the necessary mobility that UNOCI would require during such a demanding period.

In the light of the above, I recommend that the Security Council authorize the temporary transfer from UNMIL to UNOCI of the three Mi-24 armed helicopters and the two military utility helicopters, to be operational as of 4 December and up to 31 December 2011 in order to enhance the capacity of UNOCI to meet the necessary requirements during the electoral period. The military aviation reinforcement of three armed helicopters and two military utility helicopters would include some 60 personnel.

In order to enhance the security response capacity of UNOCI, particularly in high risk areas, additional uniformed personnel are required. Therefore, I also recommend that the Security Council authorize the temporary transfer from UNMIL to UNOCI of one infantry company, comprising 150 personnel, to reinforce UNOCI in western Côte d'Ivoire, and three formed police unit platoons with supporting elements, comprising 100 personnel, to Abidjan.

These units would need to be operational in Côte d'Ivoire as of 4 December and up to 31 December 2011. The duration of the deployment of the uniformed personnel and military helicopters takes into account the risk that the tensions as a result of the legislative elections could escalate into violence before, during or after polling day, in the light of the existing volatility of the security situation.

The Secretariat is in the process of seeking the consent of the concerned troop-contributing countries for these arrangements. One police-contributing country has formally given its consent for the temporary transfer. In order to ensure the timely redeployment of personnel and assets from UNMIL to UNOCI, I should be grateful if the Security Council would grant advance approval of these proposed arrangements.

I should be grateful if you could bring this letter to the attention of the members of the Security Council.

(Signed) **BAN Ki-moon**



Security Council

Distr.: General
16 November 2011

Original: English

Letter dated 16 November 2011 from the President of the International Criminal Tribunal for Rwanda addressed to the President of the Security Council

I have the honour to transmit herewith the assessments of the President and the Prosecutor of the International Criminal Tribunal for Rwanda on the implementation of the completion strategy of the Tribunal, pursuant to Security Council resolution 1534 (2004), as at 4 November 2011 (see enclosure).

I should be grateful if you would transmit the enclosed report to the members of the Security Council.

(Signed) Judge Khalida Rachid **Khan**
President

Enclosure**Report on the completion strategy of the International Criminal Tribunal for Rwanda**

(as at 4 November 2011)

Contents

	<i>Page</i>
Introduction	4
I. Activities in Chambers	4
A. Activities at first instance	4
1. Judgements (annex I.A)	5
2. Cases in judgement drafting phase (annex I.B)	6
3. Case where evidence is completed and closing arguments will be heard soon (annex I.C)	7
4. Ongoing trial (annex I.D)	7
5. Cases in pretrial phase (annex II)	7
6. Other work in the Trial Chambers	8
B. Activities of the Appeals Chamber	9
II. Measures implementing the completion strategy	10
A. Judicial calendar and management of proceedings	10
B. Judges and staff management	11
1. Judges	11
2. Staff management and budget	12
C. Work of the Office of the Prosecutor	13
1. Workload	13
2. Cooperation of the Office of the Prosecutor with Member States	15
3. Staffing	16
D. Cooperation between Member States and the Tribunal	16
E. Outreach and capacity-building	17
F. Residual Mechanism	18
III. Conclusion and updated prognosis regarding the implementation of the completion strategy	22
Annexes	
I.A. Trial judgements delivered as at 4 November 2011: 50 judgements concerning 70 accused ..	24
I.B. Cases where trial judgement delivery is awaited: three cases concerning four accused	28

I.C. One case where trial is closed but closing arguments are yet to be heard	29
I.D. Ongoing trials: one case concerning one accused	30
II. Awaiting trial: two accused in two cases	31
III. Nine fugitives	32

Introduction

1. In 2003, the International Criminal Tribunal for Rwanda formalized a strategy (completion strategy) to achieve the objectives of completing investigations by the end of 2004, all trial activities at first instance by the end of 2008 and all of its work in 2010, in accordance with Security Council resolution 1503 (2003).

2. The present report, in conjunction with previous submissions to the Security Council pursuant to resolution 1534 (2004), provides an overview of the Tribunal's progress to date in implementing the completion strategy, which has been continuously updated and developed since 2003.¹

3. As at 4 November 2011, the Tribunal had completed the work at the trial level with respect to 76 of the 92 accused, which included two referrals to national jurisdictions, two withdrawn indictments, and two indictees who died prior to or in the course of the trial. The Tribunal has delivered 50 first-instance judgements involving 70 accused, 9 of whom pleaded guilty. Appellate proceedings have been concluded in respect of 37 persons. Nine fugitives remain at large.

I. Activities in Chambers

A. Activities at first instance

4. The present report covers the period from 13 May 2011 to 4 November 2011. At the beginning of the reporting period, the remaining workload of the Tribunal to be completed included 8 trial judgements with respect to 20 accused, and 10 fugitives remained at large. During the reporting period, the Trial Chambers of the Tribunal rendered three judgements in multi-accused cases and one case began its pretrial phase.² The Prosecutor has submitted requests for the referral of four cases to Rwanda, including two for fugitives and two for recently arrested accused.³ A decision on the first referral application was delivered by the Trial Chamber in June 2011, the appeal of which is currently pending. As at 4 November 2011, judgements remained to be delivered in five ongoing cases. One of the remaining judgements is scheduled to be delivered on 17 November 2011 and another is expected before the end of December 2011.⁴ All trial work is expected to finish by the first half of 2012.

5. The three judgements projected in the last completion strategy report (S/2011/317) for delivery in the course of the reporting period were rendered. The

¹ See the reports submitted to the Security Council on 14 July 2003 and 29 September 2003, in connection with General Assembly resolution 57/289 and the Tribunal's request to increase the number of ad litem judges sitting "at any one time". Reports on the completion strategy were submitted to the President of the Security Council on 30 April and 19 November 2004, 23 May and 30 November 2005, 29 May and 8 December 2006, 31 May and 20 November 2007, 13 May and 21 November 2008, 14 May and 9 November 2009, 25 May and 1 November 2010, and 12 May 2011.

² The trial judgements were delivered in *Ndindiliyimana et al.* ("Military II"), *Nyiramasuhuko et al.* ("Butare") and *Bizimungu et al.* ("Government II"), and Bernard Munyagishari was arrested; further explanation is provided in paras. 7-9 and 17.

³ *Uwinkindi*, *Munyagishari*, *Sikubwabo*, *Kayishema* cases.

⁴ *Karemera et al.* and *Ndahimana* cases; further explanation is provided in paras. 10-11.

major challenge for the coming months remains the completion of the final cases, special depositions, contempt cases, and the review of witness protection orders amid the continued departure of key staff.

6. Despite staffing challenges, this report shows that the Tribunal is at or close to completion of all trial work as projected in the completion strategy report of May 2011 (S/2011/317). In fact, the last trial judgement in a multi-accused case is expected to be delivered before the end of 2011, in line with projections in the past two completion strategy reports.

1. Judgements (annex I.A)

7. On 17 May 2011, a section of Trial Chamber II, composed of Judges de Silva, presiding, Hikmet and Park, rendered oral judgement in the case of *Ndindiliyimana et al.* ("Military II"). The trial commenced in September 2004 and closed on 26 June 2009. The trial involved four former military leaders, Augustin Ndindiliyimana, Augustin Bizimungu, François-Xavier Nzuwonemeye and Innocent Sagahutu. Ndindiliyimana and Bizimungu were both convicted of genocide and crimes against humanity and violations of article 3 common to the Geneva Conventions and Additional Protocol II thereto. Both were acquitted of complicity in genocide and conspiracy to commit genocide. Bizimungu was sentenced to 30 years of imprisonment, and Ndindiliyimana was sentenced to time served and his immediate release was ordered. Nzuwonemeye and Sagahutu were both convicted of murder as a crime against humanity and as a violation of article 3 common to the Geneva Conventions and Additional Protocol II thereto, and acquitted of the remaining charges against them, and each was sentenced to 20 years of imprisonment. During the course of 393 trial days, the Chamber heard a total of 217 witnesses and admitted 977 exhibits. The written judgement was filed on 17 June 2011.

8. On 24 June 2011, another section of Trial Chamber II, composed of Judges Sekule, presiding, Ramarosan and Bossa, rendered oral judgement in the *Nyiramasuhuko et al.* trial ("Butare" case), involving six accused: Pauline Nyiramasuhuko, Arsène Shalom Ntahobali, Sylvain Nsabimana, Alphonse Nteziryayo, Joseph Kanyabashi and Élie Ndayambaje. Nteziryayo was convicted of direct and public incitement to commit genocide. Nyiramasuhuko, Ntahobali, Nsabimana, Kanyabashi and Ndayambaje were convicted of genocide, crimes against humanity, and violations of article 3 common to the Geneva Conventions and Additional Protocol II thereto. Nyiramasuhuko was also convicted of conspiracy to commit genocide; Kanyabashi and Ndayambaje were also convicted of direct and public incitement to commit genocide. The accused were acquitted of the remaining charges against them. The Chamber sentenced Nyiramasuhuko, Ntahobali and Ndayambaje to life imprisonment, Kanyabashi to 35 years of imprisonment, Nteziryayo to 30 years of imprisonment, and Nsabimana to 25 years of imprisonment. During the course of 714 trial days, 59 prosecution and 130 defence witnesses were heard and 913 exhibits were admitted into evidence. The written judgement was filed on 14 July 2011.

9. On 30 September 2011, another section of Trial Chamber II, composed of Judges Khan, presiding, Muthoga and Short, rendered oral judgement in the *Bizimungu et al.* ("Government II") case against four former ministers of the Interim Government that was installed after the assassination of the Rwandan President Juvénal Habyarimana. Justin Mugenzi and Prosper Mugiraneza were convicted of

conspiracy to commit genocide and direct and public incitement of genocide and acquitted of all other charges. Each was sentenced to 30 years' imprisonment. Casimir Bizimungu and Jérôme Bicomumpaka were acquitted on all counts in the indictment, and their immediate release was ordered. The trial spanned 404 trial days, during which 171 witnesses testified and over 8,000 pages of exhibits were entered into evidence. The written judgement was filed on 19 October 2011.

2. Cases in judgement drafting phase (annex I.B)

10. A section of Trial Chamber III, composed of Judges Byron, presiding, Kam and Joensen, began the judgement drafting phase of the *Karemera et al.* case against two former leaders of the Mouvement républicain national pour le développement who were involved in the establishment of the Interim Government (Édouard Karemera and Matthieu Ndirumpatse). Closing briefs were filed on 2 June 2011 and closing arguments were heard from 22 to 25 August 2011. The trial spanned 374 trial days, during which 153 witnesses were heard and 114 witness statements were admitted. The Chamber received over 1,400 exhibits and issued nearly 900 decisions. During the reporting period, the Chamber issued nine decisions. Despite handling pretrial matters in the *Uwinkindi* case, granting three requests from the prosecution for preservation of evidence by special deposition pursuant to Rule 71 bis, and Judge Byron's part-time status as of 1 September, the Chamber is on schedule to deliver the judgement in December 2011 as projected.

11. Another section of Trial Chamber III, composed of Judges Arrey, presiding, Tuzmukhamedov and Akay, heard evidence in the case against Grégoire Ndahimana, a former bourgmestre. The case opened on 6 September 2010 and closed on 12 May 2011. Judgement delivery is expected on 17 November 2011. Judge Tuzmukhamedov is also a member of the bench in *Nzabonimana* and Judge Akay was also sitting on the *Gatete* trial. On 28 June 2011, Judge Arrey, presiding, and Judges Short and Fremr delivered the Rule 11 bis referral decision in *Prosecutor v. Uwinkindi*. The *Ndahimana* legal support team assisted the judges with this decision resulting in minor delays in *Ndahimana* judgement drafting.

12. A section of Trial Chamber III, composed of Judges Bossa, presiding, Tuzmukhamedov and Rajohnson, heard evidence in the case against Callixte Nzabonimana, former Minister of Youth. The case opened on 9 November 2009 and the evidence phase was initially closed on 6 May 2011. The case was reopened to allow for the evidence of an additional defence witness, who was heard on 12 September 2011. The indictment now includes approximately 30 separate factual allegations against the accused, each alleging a serious crime. During the reporting period, the Trial Chamber conducted a site visit from 5 to 9 September 2011 and issued 17 decisions. Oral closing arguments were heard on 20 and 21 October 2011. Judgement delivery is now expected in March 2012, owing to the complexity of the case, the reopening of the evidence phase, and judges sitting in other cases. In parallel with this case, Judge Bossa sat on the bench in the "Butare" case and currently sits on the *Ngirabatware* bench, Judge Rajohnson also sits on the *Ngirabatware* bench, and Judge Tuzmukhamedov is a member of the bench in the *Ndahimana* case.

3. Case where evidence is completed and closing arguments will be heard soon (annex I.C)

13. Another section of Trial Chamber III, composed of Judges Muthoga, presiding, Park and Fremr, is hearing evidence in the case against Ildéphonse Nizeyimana, former second-in-command in charge of intelligence and military operations at the École des sous-officiers during 1994. The Prosecution case commenced on 17 January and closed on 25 February 2011. The Defence case commenced on 9 May 2011 and closed on 16 June 2011. The Chamber heard one final Defence witness on 6 September, three Prosecution rebuttal witnesses on 7 and 8 September, and four rejoinder witnesses on 20 and 21 September. The Chamber conducted the site visit from 3 to 9 October 2011, which marked the close of the evidentiary phase of the case. The Chamber rendered a total of 32 decisions from the start of the Defence case until the end of the reporting period. The parties are scheduled to deliver their oral arguments on 7 and 8 December 2011. Judgement delivery is anticipated in the first quarter of 2012.

4. Ongoing trial (annex I.D)

14. A section of Trial Chamber II, composed of Judges Sekule, presiding, Bossa and Rajohnson, continued hearing evidence in the case against Augustin Ndirabatware, the Minister of Planning in the Rwandan government during 1994. The Defence case commenced on 16 November 2010, and has continued from 13 June through 13 July 2011, from 15 through 31 August 2011, and from 19 September 2011 through the end of the reporting period. The Defence case is anticipated to close in early 2012. During the reporting period, the Chamber rendered 16 decisions and orders. Owing in part to the unanticipated length of the Defence case, as well as to other judicial commitments of those involved in this trial, judgement delivery is now anticipated by the end of June 2012. In parallel with this case, Judge Sekule presided over the "Butare" case, which delivered its judgement on 24 June 2011. Judge Bossa also sat on the bench in the "Butare" trial, and is presiding over the *Nzabonimana* case, which closed its proceedings during the reporting period and is currently in the judgement drafting phase. Judge Rajohnson also sits on the bench in the *Nzabonimana* case.

5. Cases in pretrial phase (annex II)

15. A Referral Bench composed of Judges Arrey, presiding, Short and Fremr, granted the Prosecutor's application for referral of the case against Jean Uwinkindi to the courts of Rwanda on 28 June 2011. Uwinkindi appealed the decision, which is pending before the Appeals Chamber. Uwinkindi made his initial appearance on 9 July 2010, and on 23 November 2010, the Pre-Trial Chamber, composed of Judges Byron, presiding, Kam and Joensen, granted the Prosecution's request for leave to amend the indictment. On 1 December 2010, Uwinkindi had his further appearance before Judge Kam and pleaded not guilty to both counts in the amended indictment.

16. On 25 May 2011, Bernard Munyagishari was arrested in the Democratic Republic of the Congo. He was transferred into the United Nations detention facility in Arusha on 14 June 2011. Munyagishari pleaded not guilty to the counts of conspiracy to commit genocide, genocide, complicity in genocide and murder and rape as crimes against humanity during his initial appearance on 20 June 2011. The Prosecution filed a motion for referral of the case to Rwanda on 3 October 2011. A decision on this is expected after the decision is rendered on the appeal of the

Uwinkindi referral. Trial Chamber III, composed of Judges Khan, presiding, Muthoga and Park, oversees the pretrial work. During the reporting period one order was issued.

6. Other work in the Trial Chambers

Referrals pursuant to Rule 11 bis

17. On 4 November 2010, the Prosecutor filed separate requests for the referral of the cases of Jean Uwinkindi, who was already in the Tribunal's custody, and Charles Sikubwabo and Fulgence Kayishema, both of whom remain at large, to the courts of the Republic of Rwanda. As noted in paragraph 15, the *Uwinkindi* Referral Bench granted the Prosecutor's motion and the matter is now on appeal. In *Sikubwabo* and *Kayishema*, the Bench, comprised of Judges Khan, presiding, Kam and Joensen, decided to defer the proceedings in relation to the referral motion either until the accused are arrested or until a final decision is rendered by the Appeals Chamber in *Uwinkindi*. As is further detailed in paragraph 16, a decision on the 3 October 2011 request for referral to Rwanda in the case against Bernard Munyagishari, who was arrested during the reporting period, is also expected after the *Uwinkindi* appeal is decided.

Rescission of protective measures

18. During the reporting period, the Tribunal was seized of a number of requests from the Witnesses and Victims Support Section for rescission of protective measures of witnesses in completed cases. The President appointed a Chamber to adjudicate on those requests. Five decisions have been rendered thus far.

Special depositions pursuant to Rule 71 bis

19. In February 2011, the Prosecutor filed motions for the preservation of evidence for a future trial in the cases of three fugitives accused: Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. In each case, the same Trial Chamber designated to consider the motion pursuant to Rule 71 bis, composed of Judges Byron, presiding, Kam and Joensen, authorized the preservation of evidence by special depositions. Judges Joensen, Arrey and Kam were subsequently appointed as single judges to preside over the special deposition proceedings in the cases against Kabuga, Mpiranya and Bizimana, respectively.

20. The special deposition proceedings in the *Kabuga* case commenced on 23 May 2011 and continued after the judicial recess. The Prosecution concluded the preservation of its evidence on 27 October 2011. Thus far, the presiding judge has heard 25 Prosecution witnesses over the course of 30 courtroom days. On 4 November 2011, the Chamber granted, in part, the Duty Counsel's motion for authorization to conduct investigations with the intention of calling witnesses eventually. The Chamber gave the Duty Counsel until 15 December 2011 to file a motion, if any, for the preservation of evidence relevant to the case of the accused. At that point, the Chamber will decide whether or not the Defence will be allowed to call witnesses.

21. The special deposition proceedings in the *Mpiranya* case started on 19 October 2011; the single judge has heard 12 Prosecution witnesses in 8 courtroom days. In the *Bizimana* case, proceedings are scheduled to start on 21 November 2011. In both

cases, the presiding judges have issued decisions ordering the disclosure of relevant material to the Duty Counsel representing the interests of the fugitive accused and setting the schedule of the proceedings.

Decisions of the President

22. On 23 May 2011, the President issued a decision ordering the transfer of a detainee from the United Nations detention facility to serve his sentence in a Member State.

23. On 24 October 2011, the President granted the early release of Michel Bagaragaza from 1 December 2011 after three fourths of his sentence has been served. The President noted that this decision was not intended to set a precedent and that future requests for early release would continue to be considered on a case-by-case basis.

B. Activities of the Appeals Chamber

24. As at 4 November 2011, appellate proceedings had been concluded in respect of 37 persons. Since the last report in May 2011, the Appeals Chamber delivered two appeal judgements, in the *Setako* and *Munyakazi* cases. The Appeals Chamber also rendered 1 decision disposing of an interlocutory appeal, 4 decisions concerning post-appeal requests, and 64 pre-appeal orders and decisions.

25. A further two appeal judgements are expected to be delivered in 2011, for a total for the year of six appeal judgements; four appeal judgements are to be delivered in 2012, five appeals are expected to be disposed of by the end of 2013, and the remaining three appeal judgements will be delivered in 2014.

26. In its judgement of 28 September 2011, the Appeals Chamber affirmed Éphrem Setako's convictions for genocide, extermination as a crime against humanity, and violence to life (murder) as a serious violation of article 3 common to the Geneva Conventions and of Additional Protocol II thereto, entered an additional conviction for violence to life (murder) as a serious violation of article 3 common to the Geneva Conventions and of Additional Protocol II thereto, and affirmed his sentence of 25 years of imprisonment.

27. On the same day, the Appeals Chamber affirmed Yussuf Munyakazi's convictions for genocide and extermination as a crime against humanity and affirmed his sentence of 25 years of imprisonment.

The Appeals Chamber is presently seized of nine appeals from judgement

28. The Trial Judgement in the *Bagosora et al.* case was pronounced on 18 December 2008 and issued in writing on 9 February 2009. Théoneste Bagosora, Aloys Ntabakuze and Anatole Nsengiyumva appealed. The briefing in respect of the appeals was completed at the end of July 2010, and the appeals were scheduled to be heard from 30 March through 1 April 2011. The appeals of Bagosora and Nsengiyumva were heard as scheduled and deliberations and judgement drafting are now in progress. Due to unavailability of Ntabakuze's counsel to present his appeal at the scheduled time, the Appeals Chamber severed his case from the case of his co-appellants. Ntabakuze's appeal was heard on 27 September 2011 and deliberations and judgement drafting are in progress.

29. The trial judgement in the *Ntawukulilyayo* case was rendered on 3 August 2010 and issued in writing on 6 August 2010. Dominique Ntawukulilyayo filed his notice of appeal on 6 September 2010 and the briefing was completed in March 2011. The appeal was heard on 26 September 2011 and deliberations and judgement drafting are in progress.

30. The trial judgement in the *Kanyarukiga* case was rendered on 1 November 2010 and issued in writing on 9 November 2010. Both parties filed notices of appeal in December 2010 and the briefing was completed in June 2011. The appeals are currently being prepared for a hearing.

31. The trial judgement in the *Hategekimana* case was rendered on 6 December 2010 and issued in writing on 14 February 2011. Ildephonse Hategekimana filed his notice of appeal on 16 March 2011 and the briefing was completed in July 2011. The appeal is currently being prepared for a hearing.

32. The trial judgement in the *Gatete* case was rendered on 29 March 2011 and issued in writing on 31 March 2011. Both parties filed notices of appeal in May 2011 and the briefing is in progress.

33. The trial judgement in the "Military II" case was rendered on 17 May 2011 and issued in writing on 17 June 2011. All five parties expressed their intention to appeal and four of them filed their notices of appeal in July 2011. One party was granted an extension of time to file its notice of appeal no later than 30 days from the date on which the French translation of the trial judgement will be filed.

34. The trial judgement in the "Butare" case was rendered on 24 June 2011 and issued in writing on 14 July 2011. All seven parties expressed their intention to appeal and were granted extensions of time to file their notices of appeal. The Prosecution filed its notice of appeal in September 2011, five of the parties filed their notices of appeal in October 2011, and the remaining party is to file its notice of appeal no later than 90 days from the date on which it is served with the French translation of the trial judgement.

35. The trial judgement in the "Government II" case was rendered on 30 September 2011 and issued in writing on 19 October 2011. Thus far, one of the parties expressed an intention to appeal and has requested an extension of time to file its notice of appeal.

II. Measures implementing the completion strategy

36. The following section supplements prior reports and highlights essential elements of the Tribunal's efforts to comply with its completion strategy.

A. Judicial calendar and management of proceedings

37. Because of the progress made on the major multi-accused cases, the remaining workload of the Tribunal, including completing trials and delivering trial judgements in six cases involving seven accused, is expected to be completed by mid-2012. The Tribunal continued to realize gains from increased efficiencies in trial management during the reporting period. This is evidenced by that fact that

more than two thirds of trial judgements were delivered according to the time estimates in the previous report.

38. The Tribunal continues to devise solutions to minimize the crippling challenges that it faces. It remains committed to the completion strategy, and all organs are working extremely hard to complete its mandate efficiently. However, every month of the reporting period, key staff members departed from the Tribunal, including nearly one third of Chambers legal staff, who left for more stable employment, including 4 out of 11 judgement coordinators.

39. During the reporting period, two major multi-accused trial judgements involving 10 accused were delivered on or before the date projected in the previous completion strategy report.⁵ One other multi-accused judgement was delivered on 30 September 2011, a month after the date estimated in the last report, owing to the departure of a judgement coordinator less than one month before the anticipated delivery date. The Trial Chambers are preparing for delivery of the last multi-accused judgement before the end of the year in line with projections in the last two reports.⁶ Therefore, the Tribunal continues to stay on track to complete all of its trial work by mid-2012.

40. There remains a substantial amount of work to be completed by the Tribunal in order to ensure that the Residual Mechanism is a small, efficient institution: as detailed in the previous chapter, the Chambers are currently considering motions under Rule 11 bis for the referral of four cases to Rwanda. Of these, two accused are in custody, and the other two are fugitives. Evidence preservation hearings pursuant to Rule 71 bis have already begun in two cases and a third is expected to begin this month. All are expected to be completed before mid-2012. Further, there remain approximately 500 witness protection orders that must be reviewed, in order to alleviate the Residual Mechanism of the task of monitoring protected witnesses who no longer need protection. Finally, it is still projected that the Tribunal will have multiple contempt trials beginning in 2012, which must be heard prior to its closure.

41. It is vital that the Tribunal maintain the necessary resources in its remaining time so that it may complete all necessary work within current projections.

B. Judges and staff management

1. Judges

42. Currently, four permanent judges and nine ad litem judges are serving the Tribunal at the trial level.

43. One ad litem judge and one permanent judge will demit office when the *Ndahimana* and *Karemera et al.* judgements are delivered in November and December 2011, respectively. That will leave three permanent judges and eight ad litem judges from January 2012. All three permanent judges will be assigned to the Appeals Chamber after the completion of their trial work. It is projected that the remaining ad litem judges, therefore, will be needed to complete the review of witness protection orders and anticipated contempt cases.

⁵ "Butare" and "Military II" cases.

⁶ *Karemera et al.* case.

44. Judge Khalida Rachid Khan was elected as President of the Tribunal in May 2011, and Judge Vagn Joensen was elected to the position of Vice-President in August 2011. In this regard, the Tribunal wishes to thank the Security Council for its efforts in passing resolution 1995 (2011), which allows ad litem judges to vote for and be elected as President and Vice-President. This will allow for a smooth transition from the Tribunal to the Residual Mechanism by ensuring that there is no gap in the presidency owing to the departure of all remaining permanent judges.

2. Staff management and budget

45. As indicated in earlier reports, staff retention and separation continue to be major challenges. The Tribunal has experienced difficulty in the recruitment of suitably qualified candidates in some specialized areas of work, particularly given the expectation that the work of the Tribunal will be swiftly concluded and therefore contracts will be of a short-term duration. The Tribunal also has difficulties in retaining experienced staff who, given the lack of financial incentives to stay with the Tribunal to complete their work and their reduced contractual security, have been leaving the Tribunal in increasing numbers to accept offers of employment elsewhere, either within or outside the United Nations system. This may adversely impact the successful and timely implementation of the completion strategy. The downsizing process that began in the 2008-2009 period has continued in 2010 and 2011 and well into the 2012-2013 period, with the proposed abolition of 212 posts representing 34 per cent of the authorized level for the 2010-2011 period.

46. The budget of the Tribunal for the biennium 2012-2013 includes retention of a minimum level of competent, committed and experienced staff for the core functions of the Tribunal that are critical to avoid further delays in the finalization of trials and the delivery of judgements. The proposal of the Tribunal reflects significantly reduced resources taking into account the updated completion strategy of the Tribunal and the decision of the Security Council in its resolution 1966 (2010) in respect of work that will be assumed by the Arusha branch of the Residual Mechanism. As the Mechanism will coexist with the Tribunal for 18 months of the biennium 2012-2013, administrative resource requirements for the two organizations have been harmonized to avoid duplication and to benefit from economies of scale. The proposal has therefore provided for the sharing of resources for common services and the provision of support through double-hatting arrangements among the staff members of the two entities.

47. The Tribunal is currently processing contract extensions into the next biennium in line with the schedule of trials in respect of staff members whose tasks are still considered essential. The contract renewals should assist in upholding staff morale and increasing staff retention during the preclosure phase.

48. The Tribunal continues to receive the support of the Department of Management, especially at the Office of the Controller and Human Resources Management, to explore and adopt additional measures and a common strategy to address the challenges of downsizing and separation of staff, including the establishment of the outplacement office to assist the Tribunal staff who have applied for various positions in the United Nations.

C. Work of the Office of the Prosecutor

49. Commensurate with the heavy workload in Chambers, the Office of the Prosecutor continued to focus its efforts on the completion of ongoing trials and appeals, tracking the remaining fugitives, pursuing the referral of cases to national jurisdictions and conducting proceedings for the preservation of evidence in respect of three high-level fugitives, Félicien Kabuga, Protais Mpiranya and Augustin Bizimana. In the light of Security Council resolution 1966 (2010), the Office of the Prosecutor has, in consultation with the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia, also been engaged in activities aimed at ensuring a smooth transition to the Residual Mechanism, such as working out its projected staffing and its budget and aligning the Tribunal's archiving strategy and the security of the archives with the projected takeover of the management of archives by the Residual Mechanism in July 2012.

1. Workload

50. During the reporting period, the activities of the Prosecution Division of the Office of the Prosecutor focused mainly on completing the remaining trials of six accused in the *Karemera et al.*, *Ndahimana*, *Nzabonimana*, *Nizeyimana* and *Ngirabatware* cases. In addition, renewed efforts in securing the referral of cases to Rwanda, pursuant to Rule 11 bis, resulted in an order for the referral of the case of *Jean Uwinkindi* by the Trial Chamber in June 2011. The matter is now on appeal, with a final decision of the Appeals Chamber expected before the end of 2011. Three more applications for the referral of the cases of *Kayishema*, *Sikubwabo* and *Munyagishari* to the authorities of the State of Rwanda are pending before the Trial Chambers. A positive result in the *Uwinkindi* appeal, confirming the order of the Trial Chamber granting the Prosecutor's request for referral to Rwanda, will, hopefully, open the way for the referral of these and other cases to Rwanda. Such a development will take the Tribunal a giant step forward towards the completion of its work and closure. If, however, the referral order is not confirmed by the Appeals Chamber, the Tribunal will have to try the cases of *Uwinkindi* and *Munyagishari*, who are already in its custody. The two other cases (*Laurent Bucyibaruta* and *Wenceslas Munyeshyaka*) referred to France in November 2007 under Rule 11 bis remain with the French judiciary. The Office of the Prosecutor also commenced proceedings for the preservation of evidence under Rule 71 bis in respect of the three top priority fugitives (Félicien Kabuga, Protais Mpiranya and Augustin Bizimana), who are earmarked, in event of arrest, for trial by the Residual Mechanism. It is expected that hearings in these proceedings will be concluded before the end of 2011.

51. The Prosecutor also commenced the updating and the preparation of the files of the remaining fugitives. The preparation is intended to proceed up to the stage of filing the pretrial brief in each case. This is intended to ensure a proper and smooth handover to the Residual Mechanism and to reduce the volume of work of the Residual Mechanism. This will also ensure that the Office of the Prosecutor of the Residual Mechanism, with its limited staff capacity, is fully briefed on each of the cases in the event of an arrest. Equally, it ensures that any Member State to which a case may be referred pursuant to Rule 11 bis is fully briefed.

52. As stated in previous reports, the Office of the Prosecutor continues to intensify its efforts to track the remaining nine fugitives, in spite of the reduction in

its investigation resources. The Office is also continuing the diplomatic engagement with relevant States with a view to complementing the tracking activities of its Investigations Section. This is an aspect of the work of the Office that continues to meet huge challenges both in terms of tracking and States' cooperation. In addition to tracking fugitives, the Investigations Section has also provided support to ongoing trials and appeals, to proceedings for the preservation of evidence and to the management of witnesses of the Office of the Prosecutor.

53. The Information and Evidence Support Section of the Office of the Prosecutor has continued its support to ongoing trials and appeals and to proceedings for the preservation of evidence. In addition, the section is making very good progress in the archiving of the holdings of the Office of the Prosecutor and in championing related archiving regimes and security frameworks. In coordination with the Tribunal and the Archives and Records Management Section, the Information and Evidence Support Section continued with a merger of the Document Control Unit and the Archiving Unit into a single Document Control and Archiving Unit of the Tribunal in order to deal more effectively with the Office's documentation and archiving matters within the Residual Mechanism.

54. During the reporting period, there was a significant increase in research activity for the Appeals and Legal Advisory Division. The workload of the Information and Evidence Support Section also continued to increase as it grapples with the challenge of providing reliable information to appeals teams in the discharge of their functions.

55. The Appeals and Legal Advisory Division has been attending, among other matters, to the Rule 11 bis litigation detailed above. Additionally, during the reporting period, it was prosecuting or defending approximately 34 appeals from final judgements and sentences returned in 13 cases. It was also actively preparing for 12 additional potential appeals in the five cases where Trial Chamber judgements are anticipated near the end of 2011.

56. More particularly, the Appeals and Legal Advisory Division received favourable judgements affirming Trial Chamber convictions, sentences and orders in three cases, comprising five separate appeals: *Setako* case (defence and prosecution appeals); *Munyakazi* (defence and prosecution appeals) and *Nshogoza* (contempt appeal). The Division also has presented oral arguments before the Appeals Chamber in three other cases, comprising four separate appeals: *Bagosora et al.* case (two defence appeals), *Ntabakuze* case (defence appeal) and *Ntawukulilyayo* case (defence appeal). Additionally, it completed briefing in two cases, comprising three separate appeals: *Hategekimana* case (defence appeal) and *Kanyarukiga* case (defence and prosecution appeals). On 18 July 2011, the Prosecutor filed his appellant's brief in the *Gatete* case (prosecution and defence appeals). Moreover, multiple additional defence and prosecution appeals have been or are anticipated to be filed in connection with the Trial Chamber judgements returned in the three multi-accused cases: "Military II", "Butare" and "Government II". The Prosecutor filed four separate appeals in the "Military II" case; his consolidated brief was filed on 3 October 2011. At this time, three defence notices of appeal have been filed and a fourth notice is possible when translation of the "Military II" judgement is completed. The Prosecutor filed one appeal in the "Butare" case; his appellant's brief will be filed in early November 2011. At the time of writing this report, five defence appeals had been filed and a sixth notice of appeal is possible when

translation of the "Butare" judgement is completed. The time for appeal in the "Government II" case has not yet commenced, but a total of six additional appeals (four prosecution and two defence) will be filed before the end of 2011.

57. In addition to appeals from final judgements and sentences, the Appeals and Legal Advisory Division continued to work on interlocutory appeals and post-conviction review proceedings. Responses to three new interlocutory appeals were filed in three cases (*Ngirabatware*, *Uwinkindi* and *Nzabonimana*) during the responding period. Responses to two post-conviction review applications (*Kajelijeli* and *Kamuhanda*) were also submitted; four review applications remain pending at this time. In anticipation of Trial Chamber judgements in the five remaining trials (*Ndahimana*, *Karemera et al.*, *Nzabonimana*, *Nzeyimana* and *Ngirabatware*), attorneys of the Appeals and Legal Advisory Division are also preparing comprehensive appeal readiness reports. These reports will assist the appeals teams assigned to those cases in drafting legal advisories to assist the Prosecutor in determining whether to appeal any potential adverse judgements or rulings.

2. Cooperation of the Office of the Prosecutor with Member States

58. During the reporting period, there was a positive signal for international cooperation against impunity and for accountability at the highest levels. Several Member States continued to enhance their efforts to bring to trial, within their national jurisdictions, the Rwandan suspects appearing on the list of the International Criminal Police Organization (Interpol) of wanted fugitives. The continuous support by the Tribunal for such national efforts strengthens its legacy and ultimate objective to support and build the institutions of international law through the principle of complementarity. The Office of the Prosecutor continues therefore to provide mutual legal assistance and information to national prosecuting authorities, including Rwanda. As a result, requests to the Prosecutor for information from the Office of the Prosecutor's extensive database increased substantially over the reporting period and are expected to continue to increase in the forthcoming years. In the previous reporting period, the Office of the Prosecutor processed 53 requests from 24 Member States. In the period under review, it responded to 71 requests received from 14 Member States. It has continued preparations for the establishment of a dedicated, efficient and experienced response mechanism for such requests that would quickly transfer to the Residual Mechanism's jurisdiction on 1 July 2012.

59. Efforts at tracking the remaining nine fugitives continue, with a focus on the Democratic Republic of the Congo, the neighbouring Great Lakes countries and countries in the Southern African region. Rigorous tracking efforts led to the arrest of the fugitive Bernard Munyagishari on 25 May 2011 by the authorities of the Democratic Republic of the Congo in cooperation with officers of the tracking team of the Office of the Prosecutor. The Prosecutor is confident that the continued cooperation of the Democratic Republic of the Congo will facilitate the arrest of the majority of the fugitives who are still in that territory. The Prosecutor continued to pursue efforts to visit the Democratic Republic of the Congo once again to seek support at the highest levels for the efforts of the Office of the Prosecutor at tracking the fugitives in the country. Cooperation with and support from the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo also intensified in this regard.

60. The work of the joint International Criminal Tribunal for Rwanda/Kenya Police Task Force, reactivated in November 2010, in respect of the tracking of the key fugitive Félicien Kabuga remains slow. The main issues still revolve around relevant and credible information of Félicien Kabuga's whereabouts within the country or adequate proof of his alleged departure from Kenya and the investigation and sequestering of his assets in the country. The Prosecutor continues to seek due diligence from Kenya in the discharge of its international obligations pursuant to Security Council resolution 1966 (2010) by expediting work on the tracking and arrest of this top-level fugitive.

61. Concerted efforts by Member States of the Great Lakes region in collaboration with the International Criminal Tribunal for Rwanda hold the promise of arresting and bringing to account the remaining fugitives, thus substantially assisting the Prosecutor in meeting the completion strategy targets. Such arrests would also reduce the Residual Mechanism's responsibility and costs for tracking fugitives.

3. Staffing

62. Serious challenges continue to plague the implementation of the completion strategy. Staff attrition has been most severe in relation to trials and the investigative support that they depend on. Owing to the early abolition of posts, both the Prosecution Division and the Information and Evidence Support Section have seen substantial staff losses. On the one hand, the Office of the Prosecutor has sought to ameliorate the impact of staff departures through temporary appointments. On the other hand, those efforts are handicapped by the unwillingness of potential candidates to join a closing institution and the limitations imposed by the rules governing temporary appointments. The limitations pose the challenge that the Prosecutor will not have staff to complete the *Nizeyimana* trial between 1 and 9 December 2011. Challenges relating to the implementation of the judicial calendar indicate that the trial of Augustin Ndirabatware may not be completed during 2011, as had been projected. Its spillover to 2012 would also pose additional staffing challenges to the Office of the Prosecutor.

D. Cooperation between Member States and the Tribunal

63. Efficient cooperation with Member States remains a cornerstone of the Tribunal's success in completing its mandate. This relates in particular to ensuring the arrests of the remaining fugitives, the possible referral of cases to national jurisdictions, the transfer of convicts for the enforcement of their sentence, and the relocation of acquitted persons and persons who have served their sentence. From January 2011 to date, more than 235 notes verbales and other diplomatic correspondence have been dispatched to various Governments through their embassies located in Dar es Salaam.

64. The report on the work of the Office of the Prosecutor⁷ highlights close cooperation with regard to the arrest of fugitives, the preparation of referrals to national jurisdictions, and assistance to national prosecuting authorities.

⁷ See paras. 52 to 61.

65. The Office of the Registrar, through its External Relations and Strategic Planning Section, has continued to request and obtain judicial assistance and cooperation from Member States on behalf of the Defence teams so as to enable them to present their evidence.

66. On 27 July 2011, one convicted person was transferred from the United Nations detention facility at Arusha to a Member State to serve the remainder of his sentence.

67. Moreover, the Registrar continued to deploy all efforts to find host countries for the five acquitted persons who remain in the safe houses in Arusha under the Tribunal's protection. For one of the individuals, it has been five years since the confirmation of his acquittal by the Appeals Chamber. The challenge to relocation is the unfortunate result of the absence of a formal mechanism to secure the support of Member States to accept these persons within their territories. The statute is silent in this respect and the cooperation of Member States as required by article 28 of the statute does not extend to the relocation of acquitted persons. The Tribunal considers the resettlement of persons acquitted by an international criminal tribunal to be a fundamental expression of the rule of law and is concerned about the consequences of failing to fulfil this obligation. In the light of the imminent closure of the Tribunal, the insufficient level of voluntary Member State cooperation and the human rights implications of the delayed relocation of acquitted persons, and in spite of the assistance of the Office of the United Nations High Commissioner for Refugees, the Tribunal has had no other choice but to call upon the assistance of the Security Council to find a sustainable solution to this issue.

E. Outreach and capacity-building

68. The Tribunal has continued to improve awareness of its work through its outreach programme in showcasing, disseminating and sensitizing the people of the Great Lakes region and visitors to the Tribunal's Offices in Rwanda and Tanzania about its achievements and challenges in the implementation of its completion strategy. In this regard, the Tribunal, during the period under review, welcomed to its seat more than 1,700 visitors, including 120 officials from various national Governments, United Nations agencies and academia.

69. The Tribunal's information and documentation centres scattered across Rwanda remain the flagship initiative of its outreach programme in Rwanda. Their activities are intensifying as part of the Tribunal's completion strategy and legacy. The main centre in Kigali, Umusanzu Centre, alone receives approximately 100 visitors per day. These visitors are mainly students, international and local researchers, legal professionals, journalists and others.

70. From May to July 2011, with funds from the Department of Public Information of the United Nations Secretariat, awareness-raising programmes for lessons learned from the Genocide of 1994 were successfully conducted in six major prisons throughout Rwanda. The total number of prison inmates and prison officials who attended the three-day workshops in each of the six prisons was approximately 29,800.

71. Capacity-building activities for legal professionals in Rwanda were continued during the reporting period; 15 military judges from the Rwandan Military Tribunal

were trained in online legal research methodology by learning how to access legal information and materials, including the jurisprudence of the International Criminal Tribunal for Rwanda.

72. This activity will continue as contacts have been made to extend the training to other legal professionals from the Rwandan justice sector and higher institutions of learning. In May 2011, the fourth training workshop and Moot Court Competition for members of the Kigali Bar Association were conducted for approximately 100 participants.

73. In recent years, the International Criminal Tribunal for Rwanda has established a fruitful framework of cooperation with Rwanda's legal institutions, namely in the area of capacity-building. In this context, the Legal Library and Reference Section, in collaboration with the External Relations and Strategic Planning Section, sensitized, through workshops, six academic and research institutions' stakeholders (lecturers, dean of faculty, vice rectors and rectors) on the role of open access initiatives, including the opportunity to access, free of charge, electronic resources available for developing countries. During the workshops, the Legal Library and Reference Section disseminated the jurisprudence of the Tribunal to Rwanda's university community.

74. The Legal Library and Reference Section also organized two "training of trainers" sessions on online legal research methodology in collaboration with the Rwanda Institute of Legal Practice and Development. The training allowed 30 lawyers, members of the Kigali Bar Association, to be trained as trainers so that they may sustain the capacity-building programme on online legal research after the completion of the mandate of the Tribunal.

75. The Legal Library of the Tribunal continued to widely distribute the 2010 version of the Tribunal's DVD and CD-ROM of basic documents and case law, especially in Rwanda. These tools are copies of the online version of the Tribunal's case law database available at www.ictrcaselaw.org.

76. During the reporting period, the Gender Focal Point continued to solicit funds to replenish the depleted Trust Fund for the Support Programme for Witnesses to ensure the provision of physical and psychological care to witnesses residing in Rwanda, in particular those living with HIV and AIDS. Without a prompt injection of financial contribution from Member States, the Tribunal's clinic risks having to halt the provision of its daily support, which is vital to the lives of many.

F. Residual Mechanism

77. The International Criminal Tribunal for Rwanda has been working closely with the International Tribunal for the Former Yugoslavia, under the coordination of the Office of Legal Affairs of the United Nations Secretariat, to implement Security Council resolution 1966 (2010), which established the International Residual Mechanism for Criminal Tribunals and requested the Secretary-General to make all practical arrangements necessary for the commencement of its operations.

78. The International Criminal Tribunal for Rwanda has also continued its work on the recommendations contained in the last paragraph of the report of the Secretary-General on the administrative and budgetary aspects of the options for possible locations for the archives of the International Tribunal for the Former Yugoslavia

and the International Criminal Tribunal for Rwanda and the seat of the residual mechanism(s) for the Tribunals (S/2009/258) of 21 May 2009.

79. With the commencement of its Arusha branch on 1 July 2012, the Mechanism will begin to carry out the residual functions of the Tribunals pursuant to resolution 1966 (2010), the statute and the transitional arrangements. In order to ensure the coordinated transition of the Tribunals' functions to the Mechanism and the prompt commencement of its operations, the Tribunals have continued with the implementation of the activities set out by the action plan they jointly developed in April 2011.

80. The initial priority was to develop the budget proposal for the Mechanism for the biennium 2012-2013. The Tribunals prepared a joint draft proposal for consideration by the Office of Legal Affairs, which then submitted the reviewed proposal to the United Nations Controller on 15 June 2011.

81. In keeping with the proposed budget submission, the Mechanism will be a "small and lean" entity, as mandated by resolution 1966 (2010), while remaining equipped with the necessary resources to successfully perform its mandate.

82. Following commencement, the Mechanism will have a small staff component for its continuing functions to carry out activities mandated by the Security Council, which the Mechanism will carry out at all times, irrespective of whether it is conducting any trials or appeals. These activities include the protection of witnesses, the supervision of enforcement of sentences and the management of the archives. The Mechanism will be able to rapidly scale-up to carry out ad hoc activities, mandated by the Security Council, primarily related to the conduct of trials and appeals falling under the jurisdiction of the Mechanism, which may occur from time to time, and will require additional temporary resources during peak times.

83. As the Mechanism will coexist with the Tribunals during the biennium 2012-2013, the budget proposal envisages that the Mechanism and the Tribunals will share resources and provide mutual support, particularly through the use of "double-hatted" staff and common services. Of the total 97 proposed posts for continuous functions, it is recommended that 67 posts be established and included in the budget. It is further recommended that the functions and the responsibilities of the remaining 30 posts be covered by staff from the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia through the "double-hatting" arrangement.

84. The Office of Legal Affairs prepared the first draft Rules of Procedure and Evidence of the Mechanism. On 22 July 2011, the Tribunals submitted to the Office of Legal Affairs a joint set of detailed comments on the draft. Pursuant to resolution 1966 (2010), the Rules of Procedure and Evidence of the Mechanism are based on those of the Tribunals and are subject to the resolution and the statute. The Tribunals' comments drew heavily from their collective experience and lessons learned in order to provide the Mechanism with the best legal tool to efficiently and fairly adjudicate the matters that may come before it.

85. The draft incorporating the Tribunals' input has been shared by the Office of Legal Affairs with the Security Council Informal Working Group on International Tribunals for comments. It is anticipated that the Tribunals will be requested to provide additional observations, with the purpose of the final draft of the Rules of

Procedure and Evidence being finalized by the end of the year for subsequent consideration and adoption by the judges of the Mechanism.

86. Further, the comprehensive review of existing agreements and contracts signed by the International Criminal Tribunal for Rwanda is ongoing, with the aim of determining which of the agreements and contracts should continue to be in force for the Mechanism, and, if so, whether any amendments would be required to suit the needs and specificities of the Mechanism's operations. In August, the International Criminal Tribunal for Rwanda provided substantive input to the first draft of the host country agreement for the Mechanism prepared by the Office of Legal Affairs. Discussions between the Office of Legal Affairs and the Permanent Mission of the United Republic of Tanzania are ongoing.

87. The comprehensive review of the judicial governance policies of the International Criminal Tribunal for Rwanda is ongoing, while the review of administrative governance policies is expected to commence at the beginning of November. This review, which is being conducted in close coordination with the International Tribunal for the Former Yugoslavia, aims at determining which policies will be required by the Mechanism for the performance of its operations. The review will further consider the differences, if any, among existing policies of the Tribunals and whether any harmonization may be possible and opportune.

88. Discussions with the Office of Legal Affairs and the Office of Human Resources Management are ongoing with respect to administrative matters, including the status of the Mechanism staff, post classification, the delegation of authorities and the recruitment of the Mechanism's advance team, which will carry out transition activities from January to June 2012. With respect to the status of the Mechanism staff, the Tribunals have expressed the view that the Mechanism staff should be considered as Secretariat staff. This determination would assist in the smooth and efficient functioning of the Mechanism by attracting and retaining the most qualified staff, and would allow a streamlined human resources administration through the consistent application of Secretariat policies.

89. In order to assist the coordinated transition of the victims and witnesses protection function to the Mechanism, and in compliance with paragraph 259 (l) (ii) of the report of the Secretary-General of 21 May 2009 (S/2009/258), the International Criminal Tribunal for Rwanda has been considering ways to review witness protection orders with a view to withdrawing or varying those that are no longer necessary. The Trial Chamber has issued several orders for rescission of protective measures for witnesses who are deceased and have no remaining family members for whom protective measures may also be required. The Registry, through its Witness and Victims Support Section, and the Foreign Request Unit of the Office of the Prosecutor remain responsible for submitting further requests for the review of protective measures for witnesses falling under identified categories within their respective functions.

90. The International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia have continued to plan the transition of the Tribunals' archives management function to the Mechanism. A meeting of the joint archives strategy working group was held in Arusha from 27 to 29 September 2011, which resulted in an array of agreed principles and actions between the Tribunals. The meeting successfully built upon the foundations laid in the previous meeting of the working group in February 2011. It also identified additional concrete measures to

be put in place with the aim of ensuring the smooth and timely preparation and transfer of the Tribunals' archives management to the Residual Mechanism.

91. The working group meeting also focused, among other matters, on the strategy for the transfer of the Tribunals' records to the Mechanism: while resolution 1966 (2010) vests the management of the archives with the Mechanism, the obligation to identify and prepare the records to be archived rests with the Tribunals. In order to ensure the crucial cooperation of substantive offices of the Tribunals in the identification and the preparation of records pursuant to the agreed "specifications for preparation", accountability mechanisms have been envisaged.

92. As recognized by the joint archives strategy working group at its meeting, the approval of the Tribunals' retention policies is a critical priority. The International Criminal Tribunal for Rwanda is in the process of reviewing the draft retention schedules developed by the International Tribunal for the Former Yugoslavia with the aim of identifying significant discrepancies and harmonizing variances. The comparison has been completed for all of the function schedules led by the Office of the Prosecutor and developed by the International Tribunal for the Former Yugoslavia and has commenced for the functions led by the Registry. The objective is the submission for review of a complete retention schedule for the records of the Tribunals by the end of 2011.

93. An information and communications technology (ICT) working group comprised of representatives of the International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia was created during the course of the September meeting of the joint archives strategy working group. The ICT working group has begun to develop the planning of the transition of the Tribunals' ICT systems and infrastructure to the Mechanism's ICT systems and infrastructure, which will be designed and implemented to service the Mechanism's operations and needs.

94. The Tribunals have continued to work jointly on the finalization of the draft Secretary-General's bulletin on information sensitivity, classification, handling and access for the records of the Tribunals and the Mechanism. The International Criminal Tribunal for Rwanda and the International Tribunal for the Former Yugoslavia have made revisions to the policy in accordance with feedback received from the Archives and Records Management Section, and have submitted the revised version to the Office of Legal Affairs for its consideration.

95. The International Criminal Tribunal for Rwanda has developed procedures for the implementation of orders for the declassification of records as a result of the rescission of witness protection measures, and is working in collaboration with the International Tribunal for the Former Yugoslavia towards the development of procedures for the declassification of records, in accordance with the draft classification policy.

96. The remainder of the archiving activities of the International Criminal Tribunal for Rwanda are ongoing and progress has been made. A summary of the progress made as at 4 November 2011 is as follows:

(a) *Arrangement and verification of the original judicial records:* The arrangement of the original paper-based transcripts, exhibits and case file documents has been completed. The appraisal and disposition of all judicial records maintained by the Appeals Chambers Support Section in The Hague is complete.

The verification of the hard copy transcripts against the electronic versions is complete for all 19,250 original transcripts created to date. The rehousing of the original transcripts commenced in May 2011; to date, nearly 2,000 binders of original transcripts have been rehousing in archival enclosures. This represents approximately 75 per cent of the original transcripts, and approximately 35 per cent of all judicial records.

(b) *Digitization and redaction of the audio-visual material*: The digitization of the entire backlog (35,000 hours) of the audio-visual recordings of the trial proceedings was completed in August 2011, and the procedures for the digitization of all incoming audio-visual recordings have been developed and implemented. The redaction of the audio recordings is under way; 6,000 hours of recordings (2,000 hours of proceedings) have been redacted to date. This represents approximately 10 per cent of the total number of hours of recordings to be redacted.

(c) *Management of digital records*: Archives and records management staff are currently in the process of conducting consultations with relevant stakeholders to assist in the development of TRIM datasets for the management of the records of the various sections of the International Criminal Tribunal for Rwanda. This includes assisting in the identification of the records to be maintained by the various offices and providing guidance on the compliant disposition of records, as well as assisting in the development of file plans and records types and the identification of the metadata requirements for the records. To date, six TRIM datasets have been developed and are in active use by the Tribunal. The Tribunal retained the services of a digital recordkeeping consultant to further assist in the inventory and appraisal of the digital records and recordkeeping systems in use across the Tribunal, and to provide assistance in the development of a digital recordkeeping strategy. Following the start of the assignment of the consultant on 21 October 2011, the initial phase of the inventory component of the consultancy commenced.

(d) *Management of non-judicial paper records*: The work of sorting, processing, arranging and, where appropriate, rehousing, scanning and data entry of records has expanded beyond the Office of the Prosecutor and administrative records to include the non-judicial records of the Judicial and Legal Services Division. This is being conducted concurrently with the activities described above for the management of digital records. A consultancy for the refurbishment of space in the Arusha International Conference Centre complex to establish a compliant records repository was completed in October, and construction is anticipated to be completed in the first quarter of 2012.

III. Conclusion and updated prognosis regarding the implementation of the completion strategy

97. Despite continued staffing challenges, the International Criminal Tribunal for Rwanda remains at or close to completion of all trial work as projected in the completion strategy report issued in May 2011 (S/2011/317). The Trial Chambers rendered the three multi-accused judgements that were projected for the present reporting period, and the pretrial phase began for one accused who was recently arrested. For the first time, a case was referred by the Tribunal to Rwanda, and we anticipate a final decision on the appeal to be rendered shortly. Only five trial judgements remain to be delivered, two of which are anticipated before the end of

2011, including the last of the multi-accused, which will be delivered in line with its projections since 2010. All of this work is being done while the Tribunal staff has helped lay the foundation to create a small and efficient Residual Mechanism.

98. However, there remains a substantial amount of work to be completed by the Tribunal, including completion of the remaining trial judgements, evidence preservation hearings, anticipated contempt cases, and review of more than 500 witness protection orders. There is also the potential for at least one further trial by the Tribunal beginning in early 2012 if the referral of *Uwinkindi* to Rwanda is not upheld on appeal.

99. It is vital that the Tribunal maintain the necessary resources in its remaining time, especially in Chambers and the Office of the Prosecutor, so that it may complete all necessary work within current projections. The continued attrition of experienced staff along with difficulties in the recruitment of suitably qualified candidates may impact adversely on the successful and timely implementation of the completion strategy.

100. In its final months, the entire Tribunal has rededicated itself to the mandate of challenging impunity in line with completion strategy targets. The Tribunal wishes to thank its remaining staff for their continued dedication amid an increased workload and the challenges of closing. We hope that our work will continue to serve as a lasting testament to international criminal justice through efforts to preserve our legacy for generations to come.

Annex I.A

**Trial judgements delivered as at 4 November 2011: 50 judgements
concerning 70 accused**

<i>Case</i>	<i>Name</i>	<i>Former title or position</i>	<i>Date of initial appearance</i>	<i>Trial Chamber</i>	<i>Judgement</i>
1	J.-P. Akayesu	Bourgmestre of Taba	30 May 1996	I	2 September 1998
2	J. Kambanda	Prime Minister	1 May 1998	I	4 September 1998 (guilty plea)
3	O. Serushago	Businessman, Interahamwe leader	14 December 1998	I	5 February 1999 (guilty plea)
4	C. Kayishema	Prefect of Kibuye	31 May 1996	II	21 May 1999 (joinder)
	O. Ruzindana	Businessman	29 October 1996		
5	G. Rutaganda	Businessman, Second Vice-President of Interahamwe	30 May 1996	I	6 December 1999
6	A. Musema	Businessman	18 November 1997	I	27 January 2000
7	G. Ruggiu	Journalist, Radio-télévision libre des mille collines	24 October 1997	I	1 June 2000 (guilty plea)
8	I. Bagilishema	Bourgmestre of Mbanza	1 April 1999	I	7 June 2001
9	G. Ntakirutimana	Doctor	2 December 1996	I	21 February 2003 (joinder)
	E. Ntakirutimana	Pastor	31 March 2000		
10	L. Semanza	Bourgmestre of Bicumbi	16 February 1998	III	15 May 2003
11	E. Niyitegeka	Minister of Information	15 April 1999	I	15 May 2003
12	J. Kajelijeli	Bourgmestre of Mukingo	19 April 1999	II	1 December 2003
13	F. Nahimana	Director, Radio-télévision libre des mille collines	19 February 1997	I	"Media" case (joinder) 3 December 2003
	H. Ngeze	Editor, <i>Kangura</i>	19 November 1997		
	J.-B. Barayagwiza	Director, Ministry of Foreign Affairs	23 February 1998		
14	J. Kamuhanda	Minister of Culture and Education	24 March 2000	II	22 January 2004

<i>Case</i>	<i>Name</i>	<i>Former title or position</i>	<i>Date of initial appearance</i>	<i>Trial Chamber</i>	<i>Judgement</i>
15	A. Ntagerura	Minister of Transport	20 February 1997	III	"Cyangugu" case (joinder) 25 February 2004
	E. Bagambiki	Prefect of Cyangugu	19 April 1999		
	S. Imanishimwe	Lieutenant, Forces armées rwandaises	27 November 1997		
16	S. Gacumbitsi	Bourgmestre of Rusumo	20 June 2001	III	17 June 2004
17	E. Ndindabahizi	Minister of Finance	19 October 2001	I	15 July 2004
18	V. Rutaganira	Councillor of Mubuga	26 March 2002	III	14 March 2005 (guilty plea)
19	M. Muhimana	Councillor of Gishyita	24 November 1999	III	28 April 2005
20	A. Simba	Lieutenant-Colonel, Forces armées rwandaises	18 March 2002	I	13 December 2005
21	P. Bisengimana	Bourgmestre of Gikoro	18 March 2002	II	13 April 2006 (guilty plea)
22	J. Serugendo	Technical Director, Radio-télévision libre des mille collines	30 September 2005	I	12 June 2006 (guilty plea)
23	J. Mpambara	Bourgmestre of Rukara	8 August 2001	I	12 September 2006
24	T. Muvunyi	Interim Commander, École des sous-officiers	8 November 2000	II	12 September 2006
25	A. Rwamakuba	Minister of Education	7 April 1999	III	20 September 2006
26	A. Seromba	Priest, Kivumu Commune	8 February 2002	III	13 December 2006
27	J. Nzabirinda	Youth organizer	27 March 2002	II	23 February 2007 (guilty plea)
28	J. Rugambarara	Bourgmestre of Bicumbi	15 August 2003	II	16 November 2007 (guilty plea)
29	GAA	Witness before the Tribunal	10 August 2007	III	4 December 2007 (contempt of Tribunal)
30	F. Karera	Prefect of Kigali	26 October 2001	I	7 December 2007
31	S. Nchamihigo	Deputy Prosecutor of Cyangugu	29 June 2001	III	24 September 2008
32	S. Bikindi	Musician	4 April 2002	III	2 December 2008
33	P. Zigiranyirazo	Businessman	10 October 2001	III	18 December 2008

<i>Case</i>	<i>Name</i>	<i>Former title or position</i>	<i>Date of initial appearance</i>	<i>Trial Chamber</i>	<i>Judgement</i>
34	T. Bagosora	Director of Cabinet, Ministry of Defence	20 February 1997	I	"Military I" case (joinder) 18 December 2008
	G. Kabiligi	Brigadier-General, Forces armées rwandaïses	17 February 1998		
	A. Ntabakuze	Battalion Commander, Forces armées rwandaïses	24 October 1997		
	A. Nsengiyumva	Lieutenant-Colonel, Forces armées rwandaïses	19 February 1997		
35	E. Rukundo	Chaplain	26 September 2001	II	27 February 2009
36	C. Kalimanzira	Directeur de Cabinet, Ministry of the Interior	14 November 2005	III	22 June 2009
37	L. Nshogoza	Former defence investigator	11 February 2008	III	2 July 2009 (contempt of court case)
38	T. Renzaho	Prefect of Kigali-Ville	21 November 2002	I	14 July 2009
39	M. Bagaragaza	Director General of Government office controlling the tea industry	16 August 2005	III	5 November 2009 (guilty plea)
40	H. Nsengimana	Rector, Christ-Roi College	16 April 2002	I	17 November 2009
41	T. Muvunyi	Interim Commander, École des sous-officiers camp	8 November 2000	III	11 February 2010 (retrial)
42	E. Setako	Lieutenant-Colonel	22 November 2004	I	25 February 2010
43	Y. Munyakazi	Interahamwe leader	12 May 2004	I	30 June 2010
44	D. Ntawukulilyayo	Sub-prefect of Butare préfecture	10 June 2008	III	3 August 2010
45	G. Kanyarukiga	Businessman	22 July 2004	II	1 November 2010
46	I. Hategekimana	Lieutenant, Commander of Ngoma Camp, Butare	28 February 2003	II	6 December 2010
47	J.-B. Gatete	Bourgmestre of Murambi	20 September 2002	III	29 March 2011

Case	Name	Former title or position	Date of initial appearance	Trial Chamber	Judgement
48	A. Ndindiliyimana	Chief of Staff of Gendarmerie	27 April 2000	II	"Military II" case (joinder) 17 May 2011
	F.-X. Nzuwonemeye	Battalion Commander, Forces armées rwandaises	25 May 2000		
	I. Saguhutu	Second-in-Command, Reconnaissance Battalion	28 November 2000		
	A. Bizimungu	Chief of Staff, Forces armées rwandaises	21 August 2002		
49	P. Nyiramasuhuko	Minister of Family and Women's Affairs	3 September 1997	II	"Butare" case (joinder) 24 June 2011
	A. S. Ntahobali	Interahamwe leader	17 October 1997		
	S. Nsabimana	Prefect of Butare	24 October 1997		
	A. Nteziryayo	Prefect of Butare	17 August 1998		
	J. Kanyabashi	Bourgmestre of Ngoma	29 November 1996		
	E. Ndayambaje	Bourgmestre of Muganza	29 November 1996		
50	C. Bizimungu	Minister of Health	3 September 1999	II	Bizimungu et al. (joinder) 30 September 2011
	J. Mugenzi	Minister of Commerce	17 August 1999		
	J. Bicamumpaka	Minister of Foreign Affairs	17 August 1999		
	P. Mugiraneza	Minister of Civil Service	17 August 1999		

Annex I.B**Cases where trial judgement delivery is awaited: three cases concerning four accused**

<i>Case</i>	<i>Name</i>	<i>Former title or position</i>	<i>Date of initial appearance</i>	<i>Trial Chamber</i>	<i>Comments</i>
51	E. Karemera	Minister of Interior and Vice-President of Mouvement républicain national pour le développement	7 April 1999; further appearances 23 February 2004 and 21 March 2005	III	"Karemera et al." case (joinder). Started on 27 November 2003. Started <i>de novo</i> on 19 September 2005. Third accused J. Nziroera died on 1 July 2010 and proceedings against him were terminated. Evidence completed in February 2011. Closing arguments were heard in August 2011. Judgement expected December 2011.
	M. Ngirumpatse	Director-General, Ministry of Foreign Affairs and President of Mouvement républicain national pour le développement	7 April 1999; further appearances 23 February 2004 and 21 March 2005		
52	G. Ndahimana	Bourgmestre of Kivumu	28 September 2009; further appearance 9 February 2010	III	Started on 6 September 2010. Judgement expected 17 November 2011.
53	C. Nzabonimana	Minister of Youth in the Interim Government	20 February 2008	III	Started on 9 November 2009. Closing Arguments were heard on 20 and 21 October 2011. Judgement expected March 2012.

Annex I.C**One case where trial is closed but closing arguments are yet to be heard**

<i>Case</i>	<i>Name</i>	<i>Former title or position</i>	<i>Date of initial appearance</i>	<i>Trial Chamber</i>	<i>Comments</i>
54	I. Nizeyimana	Second-in-Command, École des sous-officiers	14 October 2009; further appearances on 5 March and 7 October 2010	III	Started on 17 January 2011. Closing arguments scheduled for 7 and 8 December 2011. Judgement expected first quarter 2012.

Annex I.D**Ongoing trials: one case concerning one accused**

<i>Case</i>	<i>Name</i>	<i>Former title or position</i>	<i>Date of initial appearance</i>	<i>Trial Chamber</i>	<i>Comments</i>
55	A. Ngirabatware	Minister in the Interim Government	10 October 2008; further appearance on 9 February 2009	II	Started on 31 August 2009. Completion expected first quarter 2012. Judgement expected June 2012.

Annex II**Awaiting trial: two accused in two cases**

<i>Case</i>	<i>Name</i>	<i>Former title or position</i>	<i>Date of initial appearance</i>	<i>Trial Chamber</i>	<i>Expected date of commencement of trial</i>
1	J. Uwinkindi	Pastor, Nyamata	9 July 2010	III	Motion for referral to a national jurisdiction granted, pending appeal.
2	Bernard Munyagishari	Former President of Interahamwe for Gisenyi	20 June 2011	III	Motion for referral to a national jurisdiction pending.

Annex III

Nine fugitives

Augustin Bizimana
Félicien Kabuga
Fulgence Kayishema
Protais Mpiranya
Phénéas Munyarugarama

Aloys Ndimbati
Ladislav Ntaganzwa
Charles Ryandikayo
Charles Sikubwabo
